

Please Note: These transcripts are not individually reviewed and approved for accuracy.

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

1 BOARD MEETING

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3 JANUARY 27, 1999

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6 PLACE: 8800 CAL CENTER DRIVE

7 SACRAMENTO, CALIFORNIA

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20 REPORTED BY JANENE GIBBS

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7 I. CALL TO ORDER

8 CHAIRMAN PENNINGTON: WELL, GOOD MORNING, AND
9 WELCOME TO THE JANUARY 27TH, 1999, MEETING OF THE CALIFORNIA
10 INTEGRATED WASTE MANAGEMENT BOARD.

11 II. ROLL CALL AND DECLARATION OF QUORUM

12 CHAIRMAN PENNINGTON: WOULD THE SECRETARY
13 CALL THE ROLL?

14 THE SECRETARY: BOARD MEMBER EATON?

15 MEMBER EATON: HERE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: HERE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: HERE.

20 THE SECRETARY: ROBERTI?

21 CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: HERE. WE HAVE A
23 QUORUM.

24 DO ANY BOARD MEMBERS HAVE ANY *EX PARTE*
25 COMMUNICATIONS TO REPORT? WE'LL START WITH MR. EATON.

26 MEMBER EATON: NO, I DON'T BELIEVE SO, WITH
27 THE EXCEPTION OF PAUL WILLMAN, I'M NOT SURE IF HE'S STILL

1 ONE OF OUR EMPLOYEES, HE'S LEAVING. I DID GET A CHANCE TO
2 SAY HELLO TO HIM THIS MORNING, SO JUST TO BE ON THE SAFE
3 SIDE I'LL SAY I TALKED TO PAUL WILLMAN THIS MORNING TO WISH
4 HIM GOOD LUCK. AND IF HE IS AN EMPLOYEE THEN WE CAN
5 DISREGARD IT, IF HE ISN'T I CAN PUT IT DOWN AS *EX PARTE*

6 CHAIRMAN PENNINGTON: MR. JONES?

7 MEMBER JONES: MINE ARE UP TO DATE. SAID
8 HELLO TO LARRY SWEETSER AND MR. WILLMAN, AND THAT WAS IT,
9 SO.

10 CHAIRMAN PENNINGTON: OKAY. MR. FRAZEE?

11 MEMBER FRAZEE: MY ONLY ONE INCLUDES PAUL
12 WILLMAN.

13 MEMBER EATON: QUICKLY HE'S GOING TO FIND OUT
14 THE OTHER SIDE.

15 CHAIRMAN PENNINGTON: I HAVE LETTERS FROM
16 STEVE ANDERSEN, A CITY COUNCILMAN WITH THE CITY OF
17 HAWTHORNE, AND JERRY JAMGOTCHIAN, SO -- ON ITEM NO. 9,
18 LETTERS FROM PAMELA BENNETT, CHAIR OF THE CCDEH, AND DONALD
19 HOM WITH GLENN COUNTY.

20 III. OPENING REMARKS

21 CHAIRMAN PENNINGTON: IF THERE'S ANYBODY WHO
22 WISHES TO ADDRESS ANY ITEM ON THE AGENDA THIS MORNING THE
23 SPEAKER REQUEST FORMS ARE AT THE BACK OF THE TABLE, AND IF
24 YOU'D FILL ONE OUT AND GET IT TO MS. KELLY WE WILL TRY TO

1 MAKE SURE THAT YOU ARE HEARD.

2 BEFORE WE GO TO BOARD ANNOUNCEMENTS I HAVE A
3 LITTLE STATEMENT THAT I'D LIKE TO MAKE THIS MORNING
4 PERTAINING TO TODAY'S AGENDA. THERE ARE SEVERAL ITEMS ON
5 THE AGENDA WHICH HAD BEEN PULLED, AND WHICH I HAVE AGAIN
6 PLACED ON THE AGENDA. I UNDERSTAND THAT SEVERAL OF MY
7 COLLEAGUES ARE CONCERNED ABOUT MY ACTION, SO I'D LIKE TO
8 TAKE THIS OPPORTUNITY TO EXPLAIN MY ACTION.

9 UNDER OUR RULES THE CHAIRMAN OF THE BOARD
10 CONTROLS THE AGENDA. ANY MEMBER OF THE BOARD MAY REQUEST
11 THAT THE CHAIRMAN PULL AN ITEM, OR THE CHAIRMAN MAY PULL AN
12 ITEM HIMSELF, OR THE EXECUTIVE DIRECTOR, IN CONSULTATION
13 WITH THE CHAIRMAN, MAY RECOMMEND THAT AN ITEM BE PULLED, THE
14 REASONS USUALLY BEING THAT THE ITEM IS NOT READY FOR BOARD
15 CONSIDERATION.

16 IT HAS BEEN MY PRACTICE IN ALL CASES TO
17 ADVISE OTHER BOARD MEMBERS THAT AN ITEM IS BEING PULLED, AND
18 THE REASONS THAT THE ITEMS HAVE BEEN PULLED. I BELIEVE THAT
19 THIS IS A GOOD PRACTICE.

20 I APPRECIATE MR. CHANDLER'S CONCERN FOR ALL
21 BOARD MEMBERS' SCHEDULES, AND OVER THE PAST THREE AND A HALF
22 YEARS OF MY CHAIRMANSHIP I HAVE ALWAYS BEEN CONSIDERATE OF
23 THE BOARD MEMBERS' SCHEDULES.

24 HOWEVER, I HAVE RETURNED THREE ITEMS TO THE

CALIFORNIA SHORTHAND REPORTING

1 AGENDA: ITEM NO. 8, WASTE TIRE FACILITY PERMIT FOR LAKIN
2 TIRE; ITEM NO. 10, A SCOPE OF WORK FOR THE CLEANUP OF THE
3 OXFORD TIRE PILE; AND, ITEM 20, THE INTERAGENCY AGREEMENT ON
4 USED OIL. I FELT THAT IT WAS IMPORTANT THAT THEY BE
5 CONSIDERED BY THE BOARD AT THIS MEETING TODAY.

6 LAKIN TIRE IS A WASTE TIRE FACILITY PERMIT
7 AND IT IS A COMPANY THAT HAS CONTINUALLY WORKED WITH THE
8 BOARD ON THE TIRE ISSUES.

9 AND NO. 20, THE BOARD APPROVED THE CONTRACT
10 CONCEPT SIX MONTHS AGO AND WE SHOULD GO FORWARD, OR
11 REALLOCATE THE MONEY.

12 ITEM NO. 10, THE OXFORD TIRE PILE CLEANUP HAS
13 A NUMBER OF ISSUES THAT SHOULD BE DECIDED IN THE NEAR
14 FUTURE, OR WE WILL LOSE THE OPTION OF OBTAINING FUNDING FOR
15 THE FISCAL YEAR. THERE ARE ALSO HEALTH AND SAFETY AND
16 ENVIRONMENTAL ISSUES RELATED TO THAT TIRE SITE WHICH MUST BE
17 ADDRESSED.

18 SINCE, HOWEVER, THERE IS CONCERN AMONG MY
19 FELLOW BOARD MEMBERS ABOUT TAKING THESE ITEMS UP TODAY, I
20 WILL REMOVE THEM FROM TODAY'S AGENDA.

21 I DO WANT TO MAKE IT CLEAR THAT I AM VERY
22 CONCERNED ABOUT THE SITUATION ON OXFORD, AND ENCOURAGE THE
23 BOARD TO CONTINUE ITS EFFORTS TO REMEDIATE THIS SITE AS
24 EXPEDITIOUSLY AS POSSIBLE.

1 OKAY. ANNOUNCEMENTS THAT WE HAVE, WE DO NOT
2 HAVE ANY AGENDA ITEMS TO BE HEARD UNDER THE CONTINUED
3 BUSINESS AGENDA ITEM, OR THE CONSENT CALENDAR.

4 ITEMS 1, 3, 11, AND THOSE THAT I JUST TALKED
5 ABOUT, 8, 10 AND 20, HAVE BEEN PULLED FROM TODAY'S AGENDA.

6 WE'LL START WITH ANY REPORTS -- BEFORE WE DO
7 THAT, LET THE RECORD SHOW THAT SENATOR ROBERTI IS HERE, AND
8 I'LL ASK IF HE HAS ANY *EX PARTES*.

9 MEMBER ROBERTI: YES, MR. CHAIRMAN. JERRY
10 JAMGOTCHIAN, CITY OF HAWTHORNE, REGARDING THE CITY OF
11 HAWTHORNE SRRE. S. KENT STODDARD (PHON) REGARDING FINANCIAL
12 ASSURANCES FROM WASTE MANAGEMENT. AND STEVEN ANDERSEN, CITY
13 OF HAWTHORNE, REGARDING THE CITY OF HAWTHORNE.

14 CHAIRMAN PENNINGTON: OKAY, THANK YOU.

15 AGENDA ITEM IV: REPORTS AND PRESENTATIONS

16 ORAL REPORTS FROM BOARD MEMBERS

17 CHAIRMAN PENNINGTON: NOW, REPORTS FROM BOARD
18 MEMBERS. ANY BOARD MEMBERS? MR. EATON.

19 MEMBER EATON: I'M DEFERRING TO MR. JONES
20 TODAY ON THE 21ST CENTURY.

21 CHAIRMAN PENNINGTON: MR. JONES.

22 MEMBER JONES: MR. CHAIRMAN, I HAVE TWO.
23 UNLESS YOU WANT ME TO DO THE 21ST CENTURY, I CAN DO IT IN
24 THE THIRD ONE.

1 BUT, I SPOKE YESTERDAY AT THE BOARD OF
2 EQUALIZATION BUILDING TO THE DEPARTMENT OF GENERAL SERVICES
3 AND ALL THE STATE AGENCIES ON THE STATE AGENCY BUY RECYCLED
4 PROGRAM -- TOUGH CROWD. BUT, WE DID OUR BEST TO TRY TO
5 MOTIVATE THEM TO UNDERSTAND OUR ISSUES FROM THE STANDPOINT
6 OF THEIR OPPORTUNITY TO TAKE A LEADERSHIP ROLE IN PROCURING
7 AS MUCH AS THEY CAN THAT IS BUILT WITH RECOVERED RECYCLABLES
8 SO THAT WE CAN CONTINUE TO MOVE MARKETS. AND IT WAS A
9 SUCCESSFUL DAY.

10 SENATOR CHESBRO WAS THE OPENING SPEAKER. AND
11 OUR STAFF WAS INSTRUMENTAL -- WE ARE A CONSULTANT TO THAT
12 GROUP. AND JERRY HART (PHON) AND THOSE FOLKS DID A GREAT
13 JOB, AND I WANT TO PUBLICLY THANK THEM FOR THEIR EFFORTS,
14 AND GO FROM THERE.

15 DO YOU WANT ME TO WAIT ON THE 21ST TILL --

16 CHAIRMAN PENNINGTON: OH, NO GO AHEAD.

17 MEMBER JONES: ON THE 21ST CENTURY PROJECT
18 THAT MR. EATON HAS DEFERRED TO ME -- BECAUSE, NORMALLY I
19 DEFER IT TO HIM -- FOR THOSE OF YOU THAT WERE THERE, WE
20 THINK THAT THE ISSUE SUMMIT WAS AN ABSOLUTE SUCCESS. IT IS
21 VERY EASY TO TALK ABOUT ISSUES AND TRENDS.

22 AS YOU SEE AROUND THE WALL, THAT IS THE
23 GRAPHIC ARTIST'S PORTRAYAL OF THE DAY AS THE ISSUES WERE
24 DISCUSSED. AT THE BREAKS OR AT LUNCH TAKE AN OPPORTUNITY

1 AND WALK AROUND AND TAKE A LOOK AT THAT. I THINK THAT
2 CAPTURING THESE IDEAS REALLY IS AN ART THAT IS EVIDENT WHEN
3 YOU LOOK AT THESE THINGS.

4 THE SECOND PART OF WHAT IS GOING TO BE A
5 THREE- OR FOUR-PART SERIES IN THE BOARD'S EFFORTS TO LOOK
6 INTO THAT FIRST DECADE OF THE 21ST CENTURY IS THE FUTURE
7 SEARCH, WHICH IS GOING TO BE HELD MARCH 9TH AT THE
8 SACRAMENTO CONVENTION CENTER.

9 AND WHAT WE ARE GOING TO DO, AND THIS IS VERY
10 BRIEFLY, BOARD TEAMS NOW ARE GOING TO START GOING THROUGH
11 THE ISSUES AND THE TRENDS, AND REVIEW THEM, AND PULL THOSE
12 TOP 10 ISSUES AND TRENDS OUT, AND TRY AND DEVELOP THEM. AND
13 AT THAT CONFERENCE, AT THAT FUTURES SEARCH CONFERENCE, WE
14 ARE GOING TO WORK ON AN EXERCISE WHERE WE CAN START TO BUILD
15 SCENARIOS, BEST CASE AND WORST CASE SCENARIOS, ON EACH OF
16 THOSE IDENTIFIED ISSUES. IT IS A UNIQUE WAY OF TRYING TO
17 LOOK AT THE GOOD SIDE AND THE BAD SIDE OF WHAT MAY BE COMING
18 DOWN. AND THEN THIS BOARD WILL TAKE THAT INFORMATION AT THE
19 END OF THE DAY, OR AT THE END OF THE DAYS, AND START WORKING
20 ON WHAT THE PROBABLY SCENARIOS WOULD BE. SO THIS PROCESS
21 HAS THREE TO FOUR STEPS TO IT BEFORE WE ACTUALLY COME OUT
22 WITH A DELIVERABLE THAT WE'LL BE ABLE TO USE.

23 BUT I THINK THE PARTICIPATION OF THE
24 STAKEHOLDERS IS PARAMOUNT IN US ACHIEVING OUR GOAL, WHICH IS

1 TO HELP FORM POLICY AND HELP BE A RESOURCE TO BOTH THE
2 LEGISLATURE AND THE ADMINISTRATION ON WHAT TYPES OF ISSUES
3 TO LOOK FORWARD TO.

4 IN THE CITY OF INDUSTRY, OUR LAST BOARD
5 MEETING THAT WE HELD, WE PUBLICLY THANKED OUR CONSULTANTS,
6 AS WELL AS OUR STAFF, AND I THINK IT'S PROBABLY APPROPRIATE
7 AGAIN. I'LL MISS SOMEBODY, AS I DID LAST TIME, MR. EATON
8 HAD TO GET SOME NAMES. BUT DONNA HOGAN AND MAUREEN GOODALL,
9 AND TRACY HARPER, AND RUBIA PACKARD, AND SUE PETERSEN, AND
10 RALPH CHANDLER, AND KEITH SMITH, AND PATTI BERTRAM, AND JOHN
11 FRITH, AND -- I'M TRYING TO THINK WHO SITS AROUND THE TABLE
12 WITH US -- AND THOSE PEOPLE WORKED VERY, VERY HARD ON THIS,
13 AND DID AN OUTSTANDING JOB. THE PROBLEM IS, IS THAT THEY
14 HAVE RAISED THE EXPECTATION NOW, SO OUR NEXT MEETING IS
15 GOING TO HAVE TO BE THAT MUCH BETTER, AND WE'RE CONFIDENT IT
16 WILL BE.

17 THANKS.

18 CHAIRMAN PENNINGTON: VERY GOOD. MR. FRAZEE,
19 DO YOU HAVE --

20 MEMBER FRAZEE: YES, MR. CHAIRMAN, I HAVE A
21 PRESENTATION TO MAKE, AND I'D LIKE TO DO THAT FROM THE
22 PODIUM. AND IF YOU WOULD CARE TO
23
24 JOIN ME?

1 WELL, MR. CHAIRMAN, I HAVE A RESOLUTION TO
2 PRESENT, AND THIS IS RELATIVE TO COMMENDING DANIEL G.
3 PENNINGTON FOR HIS SERVICE AS CHAIRMAN OF THIS BOARD FOR THE
4 PAST THREE AND A HALF YEARS.

5 BEFORE DOING THAT THERE'S A COUPLE OF
6 COMMENTS THAT I'D LIKE TO MAKE. WHEN I WAS APPOINTED TO THE
7 WASTE BOARD, JUST FOUR YEARS AGO COMING UP THIS NEXT MONTH,
8 THE CONVENTIONAL WISDOM WAS THAT I WAS GOING TO BE CHAIRMAN,
9 AND I HEARD THAT FROM ALL KINDS OF PLACES. AND THE
10 RATIONALE WAS SINCE THERE WERE TWO VACANCIES AND I WAS GIVEN
11 THE LONGEST ONE OF THOSE VACANCIES, THAT THAT MEANT THAT THE
12 GOVERNOR INTENDED FOR ME TO BE CHAIRMAN.

13 A SHORT TWO OR THREE MONTHS AFTER THAT I
14 RECEIVED A CALL FROM THE GOVERNOR'S OFFICE, AND THE
15 INDICATION WAS THE GOVERNOR IS APPOINTING DAN PENNINGTON TO
16 THE WASTE BOARD, TO FILL THE OTHER VACANCY, AND HE EXPECTS
17 MR. PENNINGTON TO BE THE CHAIRMAN. AND SO, NATURALLY, I HAD
18 A SENSE OF DISAPPOINTMENT, BUT THAT SENSE OF DISAPPOINTMENT
19 LASTED ABOUT 30 SECONDS. AND IT WAS REPLACED WITH A SENSE
20 OF RELIEF, AND I'VE ENJOYED THAT RELIEF FOR THE PAST THREE
21 AND A HALF YEARS NOW, AS I'VE WATCHED DAN PERFORM ALL OF THE
22 JUGGLING ACT, TRYING TO KEEP ALL THE BALLS IN THE AIR AT THE
23 SAME TIME, AND HAVE OBSERVED THE MARVELOUS JOB THAT HE'S
24 BEEN DOING IN THAT OFFICE.

1 YOU KNOW, THE WASTE BOARD IS UNIQUE AMONG ALL
2 OF THE VARIOUS BOARDS AND COMMISSIONS OF STATE GOVERNMENT,
3 JUST IN ITS STRUCTURE. BUT I THINK IT'S UNIQUE IN ANOTHER
4 WAY, AND IT CAME HOME TO ME AT THE 21ST CENTURY PROJECT DOWN
5 IN THE CITY OF INDUSTRY, SORT OF REINFORCED MY BELIEF, THAT
6 THERE'S NO OTHER REGULATORY AGENCY IN GOVERNMENT THAT GOES
7 TO THE EXTENT THAT THIS AGENCY DOES IN BRINGING IN ALL OF
8 THE PLAYERS, ALL OF THE REGULATED COMMUNITY, ALL OF THE
9 INTEREST GROUPS, AND REACHING A CONSENSUS BEFORE MOVING
10 AHEAD.

11 AND I THINK THAT TENOR HAS CERTAINLY BEEN
12 SET, MR. CHAIRMAN, BY YOU AT THE TOP. AND I THINK THAT'S A
13 PATTERN THAT PERHAPS EXISTED BEFORE YOU AND I ARRIVED, AND
14 I'VE ASSUMED THAT IT WAS, BUT I THINK THAT YOU'VE CERTAINLY
15 HELPED THAT ALONG. AND IT'S REALLY, AS I SAY, A LANDMARK IN
16 GOVERNMENT. YOU KNOW, WE HEAR SO MUCH ABOUT REINVENTING
17 GOVERNMENT, AND I THINK WE'VE ALREADY DONE THAT HERE AT THE
18 WASTE BOARD IN THIS COOPERATIVE ARRANGEMENT THAT HAS BEEN
19 BROUGHT FORTH.

20 I THINK ALSO, IN OBSERVING YOUR OPERATION,
21 AND THE CHAIRMAN'S OFFICE, YOUR STAFF, YOUR VERY EXCELLENT
22 STAFF SHOULD SHARE IN THIS RESOLUTION ALSO. UNFORTUNATELY,
23 THEIR NAMES ARE NOT HERE, BUT MARLENE AND SUSAN AND LOU
24 (PHON) HAVE REALLY BEEN GREAT, BECAUSE THEY'VE PERFORMED NOT

1 JUST FOR YOU, BUT FOR THE ENTIRE BOARD IN WHAT THEY HAVE
2 BEEN ABLE TO DO.

3 SO I GUESS, AS I SAID IN THE BEGINNING, MY
4 DISAPPOINTMENT WAS REPLACED WITH RELIEF. IT WAS THE ONLY
5 ELECTION IN MY 26 YEARS IN PUBLIC OFFICE THAT I LOST, BUT IT
6 -- THAT LOSS COULDN'T HAVE BEEN TO A BETTER PERSON, AND
7 YOU'VE CERTAINLY PROVEN THAT OVER THE THREE AND A HALF YEARS
8 THAT WE'VE WORKED TOGETHER.

9 SO I'D LIKE TO PRESENT TO YOU THIS
10 RESOLUTION, I JUST WISH IT WOULD HAVE BEEN FRAMED. AND HAD
11 I KNOWN, BEFORE I HAULED ALL THOSE FRAMES HOME FROM -- 17
12 BOXES OF RESOLUTIONS THAT I'VE RECEIVED OVER MY 26 YEARS, I
13 WOULD HAVE SNATCHED ONE OF THOSE FRAMES OUT AND GOT THIS
14 FRAMED FOR YOU.

15 BUT, THIS RESOLUTION, SIGNED BY ALL OF THE
16 REMAINING MEMBERS OF THE BOARD, AS WELL AS RALPH CHANDLER,
17 THE EXECUTIVE DIRECTOR, COMMENDS YOU FOR YOUR SERVICE AND
18 WISHES YOU THE VERY BEST FOR YOUR FUTURE ENDEAVORS. AND I
19 KNOW THAT YOU'RE GOING TO CONTINUE TO BE HERE AT THE BOARD
20 WORKING JUST AS HARD AS YOU HAVE, EVEN THOUGH YOU WILL NO
21 LONGER BE CHAIRMAN. (APPLAUSE.)

22 AND, MR. CHAIRMAN, YOUR ADVISOR, LOU
23 HASTINGS, HAS SOME COMMENTS THAT HE WOULD LIKE TO MAKE ALSO.

24 MR. HASTINGS: THANK YOU, MR. FRAZEE, BOARD

1 MEMBERS.

2 MR. CHAIRMAN, YOU NOTED THIS THIS MORNING,
3 I'M SURE, SO I WOULD LIKE TO PRESENT TO YOU THE GAVEL YOU
4 HAVE USED FOR THE PAST THREE AND A HALF YEARS AS CHAIRMAN OF
5 THE BOARD. IT SAYS WITH APPRECIATION TO DANIEL G.
6 PENNINGTON, CHAIRMAN, CIWMB, JUNE 1995 - JANUARY 1999.

7 CHAIRMAN PENNINGTON: THANK YOU. (APPLAUSE.)
8 WELL, I'M OVERWHELMED, THANK YOU VERY MUCH.

9 I HAD A LITTLE STATEMENT THAT I WAS GOING TO
10 MAKE AT THE END OF THE MEETING TODAY, SO IF YOU'LL LET ME
11 GIVE THAT STATEMENT TO YOU NOW, I THINK IT'S THE BEST WAY
12 THAT I CAN SAY THANK YOU.

13 TODAY WILL COMPLETE THE 51ST BOARD MEETING
14 WHICH I HAVE PRESIDED OVER AS CHAIRMAN. I'M NOW GOING TO
15 TURN THE GAVEL OVER TO DANNY EATON, AND I DO THIS WITH BOTH
16 HIGH EXPECTATIONS AND, OF COURSE, SOME SADNESS.

17 I KNOW THAT THE RELATIONSHIP BETWEEN MR.
18 EATON AND THE NEW ADMINISTRATION, THE BOARD WILL HAVE AN
19 EXCELLENT OPPORTUNITY TO GAIN THE SUPPORT OF THE AGENCY AND
20 THE VARIOUS STATE CONTROL AGENCIES TO MOVE FORWARD IN THE
21 ENDEAVOR TO REACH THE, OR EXCEED THE, 50 PERCENT MANDATE
22 GOAL WHICH, WITH THEIR RELATIONSHIP, WILL ALLOW US TO HAVE
23 FEW ROADBLOCKS WITH THE ADMINISTRATION.

24 IN ADDITION, WITH MR. EATON'S VAST KNOWLEDGE

1 AND EXPERIENCE AT THE CAPITOL, COUPLED WITH THAT OF SENATOR
2 ROBERTI, THE ROAD THROUGH THE LEGISLATIVE PROCESS WILL BE
3 SMOOTH, AND THAT THE SUPPORT FOR THE LEGISLATIVE ISSUES
4 NECESSARY FOR THE BOARD TO FULFILL ITS MISSION, WILL BE
5 EASILY OBTAINED.

6 I HAVE HIGH EXPECTATIONS OF THE BOARD STAFF.

7 THIS STAFF IS ONE OF THE MOST DEDICATED GROUP OF
8 INDIVIDUALS IN STATE SERVICE. THE STAFF IS PROFESSIONAL,
9 HARDWORKING, WELL EDUCATED, AND ON TOP OF THE ISSUES, AND
10 ALWAYS GOES THE EXTRA DISTANCE TO HELP INDUSTRY AND LOCAL
11 GOVERNMENT ACHIEVE THE STATUTORY THRUST OF AB 939. SO, I DO
12 HAVE HIGH EXPECTATIONS THAT THE BOARD WILL, WITH THE SUPPORT
13 OF THIS MAGNIFICENT STAFF, REACH ITS MISSION WITHIN THE
14 PROPER TIME FRAMES.

15 FURTHER, I HAVE HIGH EXPECTATIONS FOR THE
16 INDIVIDUAL BOARD MEMBERS. AS WITH PEOPLE WHO HAVE SPENT
17 MOST OF THEIR LIVES IN THE POLITICAL TRENCHES, IT IS HARD
18 NOT TO FALL INTO THE ROUTINE OF PARTISAN POLITICS. BUT EACH
19 OF THE MEMBERS OF THIS BOARD HAS MADE A VERY DEFINITE EFFORT
20 TO AVOID POLITICS, AND TO STICK TO THE MISSION AT HAND.
21 THEREFORE, I HAVE HIGH EXPECTATIONS THAT WE WILL CONTINUE TO
22 SET ASIDE THE PARTISAN ISSUES, AND DEAL WITH THE ISSUES THAT
23 HAVE AN IMPACT ON THE REDUCTION OF WASTE.

24 I AM HONORED TO HAVE HAD THE OPPORTUNITY TO

1 SERVE AS YOUR CHAIRMAN. IT HAS BEEN INTERESTING, FUN, AND
2 MOST OF ALL, A PRIVILEGE TO CALL EACH OF YOU MY COLLEAGUES.

3 IN ADDITION, I HAVE HAD THE HONOR AND
4 PRIVILEGE TO SERVE WITH COLLEAGUES WHO HAVE LEFT THE BOARD,
5 SUCH AS SENATOR WES CHESBRO, JANET GOTCH, PAUL RELLIS, SAM
6 AGIGIA, AND MOST RECENTLY JOHN AMADEO AND STEPHEN RHODES. I
7 VERY MUCH APPRECIATE THE SUPPORT THAT EACH OF YOU HAVE GIVEN
8 ME OVER THE PAST THREE AND A HALF YEARS.

9 IT IS WITH SOME SADNESS THAT I RELINQUISH THE
10 CHAIR. HOWEVER, I DO LOOK FORWARD TO BEING ABLE TO SPEND
11 MORE TIME AND ENERGY ON THE ISSUES, AS OPPOSED TO HELPING
12 THE SENIOR STAFF NAVIGATE THIS SHIP OF STATE THROUGH THE
13 WATERS OF THE STATE BUREAUCRACY.

14 I CANNOT LEAVE THE CHAIRMANSHIP WITHOUT
15 THANKING THE ENTIRE BOARD STAFF FOR ALWAYS BEING READY TO
16 HELP ME, AND FOR GIVING ME GOOD GUIDANCE.

17 I ALSO WANT TO THANK RALPH CHANDLER FOR HIS
18 MANY HOURS WORKING WITH ME ON MANY OF THE PROGRAMS,
19 POLICIES, AND ADMINISTRATIVE ISSUES FACING THE BOARD.

20 I ALSO WANT TO THANK MY PERSONAL STAFF,
21 MARLENE KELLY, SUSAN WESTLAKE, AND LOU HASTINGS FOR THEIR
22 DEDICATION AND THEIR LOYALTY TO ME, AND TO MAKING EACH BOARD
23 MEETING FLOW WITH AS FEW BUMPS AS POSSIBLE.

24 AND, FINALLY, I ALSO -- AS I STEP TO THE BACK

1 BENCH FOR THE LAST YEAR OF MY TERM -- I MUST THANK FORMER
2 GOVERNOR PETE WILSON FOR GIVING ME THE OPPORTUNITY TO SERVE
3 THE PEOPLE OF THIS GREAT STATE OF CALIFORNIA.

4 I THANK YOU ALL FOR YOUR SUPPORT THROUGH THE
5 YEARS. EACH OF YOU HAVE COME IN TO -- A LOT OF YOU HAVE
6 COME IN TO SEE ME, AND HAVE EDUCATED ME IN THE WORLD OF
7 WASTE. IT'S BEEN A VERY, VERY WONDERFUL EXPERIENCE, AND AN
8 ABSOLUTE PRIVILEGE TO HAVE HAD THIS HONOR. THANK YOU ALL
9 VERY MUCH. (APPLAUSE.)

10 OKAY. AGAIN, THANK YOU, THAT WAS WONDERFUL.

11 ORAL REPORT FROM THE EXECUTIVE DIRECTOR AND EXECUTIVE
12 STAFF

13 CHAIRMAN PENNINGTON: NOW WE'LL GO TO A
14 REPORT FROM THE EXECUTIVE DIRECTOR AND THE EXECUTIVE STAFF.
15 MR. CHANDLER.

16 MR. CHANDLER: THANK YOU, MR. CHAIRMAN. I DO
17 NOT HAVE ANY ITEMS SPECIFIC TO MY DIRECTOR'S REPORT. BUT I
18 DO HAVE A COUPLE OF RESOLUTIONS THAT I WOULD LIKE TO OFFER
19 TO STAFF. SO, IF YOU'LL EXCUSE ME, I'LL MOVE TO THE PODIUM
20 AS WELL.

21 I DO HAVE, AS I MENTIONED, A COUPLE OF
22 RESOLUTIONS I'D LIKE TO OFFER TO STAFF. BUT, BEFORE I DO
23 THAT, AND PERHAPS TO PUNCTUATE SOME OF THE REMARKS THAT WERE
24 JUST MENTIONED TO YOU, MR. CHAIRMAN, I WOULD LIKE TO ADD A

1 LITTLE MEMENTO AS WELL. PERHAPS SOMETHING THAT, IN ADDITION
2 TO THE WORK THAT YOU ARE VERY WELL KNOWN FOR HERE AT THE
3 BOARD, THERE'S ANOTHER AREA OF YOUR PERFORMANCE HERE AT THE
4 BOARD THAT I THINK NEEDS TO BE RECOGNIZED.

5 AND IT HAS TO DO WITH AN AFTERNOON LAST
6 AUGUST, AN AFTERNOON THAT, AS HE HAS SOMETIMES THE WONT TO
7 DO, MR. PENNINGTON SLIPPED OUT AND WENT TO THE LIGHTHOUSE
8 GOLF CLUB. AND ON THAT AFTERNOON IN AUGUST, AT THE SEVENTH
9 HOLE SOMETHING MIRACULOUS HAPPENED. AT LEAST THAT'S HOW THE
10 STORY GOES, BECAUSE IT'S BEEN TOLD, AND I'VE EVEN SEEN THE
11 NEWSPAPER ARTICLE, THAT REPRESENTED THAT ON THAT DAY MR. DAN
12 PENNINGTON MADE A HOLE IN ONE ON THAT SEVENTH HOLE.

13 SO, IT WAS WITH MUCH EXCITEMENT THAT THE
14 EXECUTIVE STAFF GOT TOGETHER, PUT A FEW BUCKS IN THE KITTY
15 AND WE GOT YOU THIS WONDERFUL MEMENTO THAT I KNOW YOU WILL
16 WANT TO HAVE ON THE TOP OF YOUR MANTLE, AND I'LL HAND IT TO
17 YOU NOW. AND YOU UNDERSTANDING THIS LITTLE CUT-OUT HERE IS
18 FOR THAT LITTLE ORANGE BALL THAT YOU USED WHEN YOU PLAYED
19 THAT DAY. SO, DAN, IN ALL JEST, BUT IN SINCERITY FROM THE
20 EXECUTIVE STAFF, I'LL HAND THIS LITTLE.... (APPLAUSE.)

21 CHAIRMAN PENNINGTON: ACTUALLY, THE BALL
22 ISN'T JUST ORANGE, IT'S ORANGE AND RED, AND SEVERAL COLORS
23 MIXED INTO IT THERE.

24 MR. CHANDLER: WELL, MR. EATON, REST ASSURED,

1 I UNDERSTAND THAT PAUL'S FIRST DAY IS MONDAY, SO YOU DON'T
2 HAVE TO WORRY ABOUT THE *EX PARTE*.

3 BUT, LET ME RECOGNIZE PAUL WILLMAN, WHO COULD
4 -- IF YOU WOULD, PLEASE COME FORWARD.

5 AS MANY OF YOU HAVE HEARD, PAUL HAS MADE THE
6 LEAP INTO THE PRIVATE SECTOR, I THINK MUCH -- HE IS TO BE
7 RECOGNIZED FOR WHY HE WAS SELECTED BY WASTE MANAGEMENT TO,
8 AS I UNDERSTAND, TAKE ON A SIGNIFICANT POSITION TO OVERSEE
9 SOME OF THEIR OPERATIONS FOR CALIFORNIA IN THE AREA OF
10 FACILITY COMPLIANCE. I DON'T KNOW IF IT'S SOUTHERN
11 CALIFORNIA SPECIFICALLY, OR THE ENTIRE STATE BUT,
12 NEVERTHELESS, I THINK IT'S A REAL COMPLIMENT TO PAUL'S
13 EXCELLENT EFFORTS.

14 THE BOARD HAS A RESOLUTION -- AND, PAUL, I
15 DON'T THINK I'M GOING TO GO THROUGH THE WHOLE WHEREAS', I'M
16 JUST GOING TO HAND YOU THE RESOLUTION IN THE INTEREST OF
17 TIME.

18 BUT I DON'T WANT TO LEAVE WITHOUT SAYING
19 THAT, YOU KNOW, IT'S TOUGH BEING TETHERED OUT IN THE
20 SOUTHERN CALIFORNIA OFFICES. PAUL IS -- YOU KNOW, AT ONE
21 TIME WE HAD THREE SOUTHERN CALIFORNIA OFFICES, REDLANDS,
22 VALENCIA, AND FULLERTON. IT WAS A TOUGH DECISION, BUT WHEN
23 THE BOARD'S BUDGET WAS TIGHT SEVERAL YEARS AGO WE MADE THE
24 DECISION TO CONSOLIDATE THE THREE REGIONAL FIELD OFFICES

1 INTO A SINGLE OFFICE IN FULLERTON, AND PAUL CONTINUED ON AS
2 THE LEAD SUPERVISOR FOR OUR SOUTHERN CALIFORNIA OPERATIONS,
3 AND DID A MIRACULOUS JOB. BROUGHT THE STAFF TOGETHER,
4 CONTINUED TO HELP US MOVE INTO THAT TRANSITION OF MORE OF A
5 COMPUTER-BASED ORGANIZATION DOWN THERE, TELE-COMMUTING WHILE
6 MAINTAINING THE OVERSIGHT WE NEEDED AT THOSE FACILITIES, AND
7 YOU DID IT WITH GREAT PROFESSIONALISM.

8 SO, PAUL, ON BEHALF OF THE ENTIRE ORGANIZE
9 AND THE BOARD, CONGRATULATIONS ON YOUR NEW ASSIGNMENT. BEST
10 OF LUCK TO YOU. AND STAY IN TOUCH, AND LET US KNOW FROM THE
11 OTHER SIDE HOW WE CAN CONTINUE TO IMPROVE STATE GOVERNMENT.

12 THANK YOU. (APPLAUSE.)

13 MR. WILLMAN: I JUST WANT TO SAY THANKS A
14 LOT. IT'S AN INCREDIBLE HONOR. ALTHOUGH I DON'T HAVE --
15 THIS IS THE FIRST, I DON'T HAVE 17 LIKE MR. FRAZEE, AND I
16 DIDN'T GET A GAVEL. BUT, I JUST WANT TO SAY THANKS A LOT.
17 AND JUST WHAT A GREAT ORGANIZATION THIS HAS BEEN TO WORK
18 FOR.

19 I'VE BEEN HERE FOR 10 YEARS NOW, AND JUST THE
20 CHANGES I'VE SEEN FROM 10 YEARS AGO, THE FIRST TIME I EVER
21 WENT OUT IN THE FIELD TO A SITE DOWN SOUTH AND, YOU KNOW,
22 YOU COULD PROBABLY FIND 20 TO 25 VIOLATIONS AT THAT TIME.
23 AND YOU GO OUT THERE NOW AND YOU'RE HARD-PRESSED TO FIND ONE
24 OR TWO VIOLATIONS.

1 AND I THINK THAT'S A REFLECTION ON JUST THE
2 QUALITY OF THE PEOPLE I'VE HAD TO WORK WITH OVER THE YEARS.

3 AND NOT JUST HERE AT THE BOARD, BUT ALSO THE LEAS AND THE
4 OPERATORS, TOO. AND I JUST WANT TO SAY THANKS A LOT, AND
5 IT'S JUST BEEN A PLEASURE WORKING FOR THIS BOARD. THANKS.
6 (APPLAUSE.)

7 CHAIRMAN PENNINGTON: I MIGHT ADD THAT HE MAY
8 HAVE NOT GOTTEN A GAVEL, BUT HE GOT A FRAME.

9 MR. CHANDLER: THAT'S WHAT HAPPENS WHEN YOU
10 HELP MR. FRAZEE MOVE, SEE.

11 OUR SECOND RESOLUTION THIS MORNING IS TO
12 COMMEND THE RETIREMENT OF DR. BOB BLACKSTONE.

13 BOB, YOU'RE IN THE BACK, WHY DON'T YOU COME
14 FORWARD, PLEASE? AND, BOB, I SIMILARLY WANTED TO SAY A FEW
15 REMARKS WITHOUT, AGAIN, GOING THROUGH ALL THE WHEREAS'.

16 I JUST WANT TO AGAIN PUBLICLY THANK YOU FOR
17 YOUR WORK AT THE BOARD. I KNOW IT WAS WITH GREAT
18 PROFESSIONALISM THAT, THE DAY I CAME TO YOU AND ASKED IF YOU
19 WOULD MIND HELPING THE AGENCY ON THEIR TECHNOLOGY
20 CERTIFICATION PROGRAM I DIDN'T HAVE TO GO INTO MUCH DETAIL
21 AT ALL BEFORE YOU JUMPED AT THE OPPORTUNITY, AND WENT OVER
22 THERE, AND CERTAINLY HELPED THAT AGENCY -- WHICH WAS GOING
23 THROUGH SOME TOUGH TIMES, AS YOU KNOW -- AND TRYING TO PULL
24 THAT PROGRAM TOGETHER. AND ALL REPORTS I GOT IS YOU DID AN

1 EXCELLENT JOB.

2 YOU'VE ALWAYS BEEN A SPIRIT OF INNOVATION AND
3 EXCITEMENT IN THE ORGANIZATION, PRESSING MANAGEMENT AND
4 OTHERS, AND THE STAFF AROUND YOU TO LOOK AT THE -- PERHAPS
5 THE ALTERNATIVE SIDE OF AN ISSUE, AND HOW WE CAN MAKE
6 GOVERNMENT BETTER, AND BRINGING A LOT OF EXPERIENCE ALONG
7 THE WAY THAT CERTAINLY HELPED OUR PROGRAMS GROW.

8 SO, AGAIN, IT'S WITH MUCH PRIDE AND
9 APPRECIATION THAT I PRESENT YOU WITH THIS RESOLUTION FROM
10 THE ENTIRE BOARD COMMENDING YOUR RETIREMENT FROM STATE
11 SERVICE. THANKS. (APPLAUSE.)

12 DR. BLACKSTONE: THANK YOU VERY MUCH, RALPH.

13 IT HAS BEEN -- I'LL ECHO THE WORDS PAUL JUST
14 SAID, IT'S BEEN A REAL HONOR TO WORK WITH THIS ORGANIZATION,
15 AND THE QUALITY STAFF PEOPLE. I'VE BEEN HERE PERHAPS EVEN A
16 LITTLE MORE THAN A DECADE, AND HELPED TO DREAM SOME OF THE
17 NEW CHANGES IN, WORKING TO ESTABLISH AB 939 WHEN IT WAS
18 BORN, WITH MANY CHANGES.

19 AND I DON'T THINK, IN ALL THE YEARS THAT I'VE
20 WORKED IN A VARIETY OF ORGANIZATIONS, INCLUDING ACADEMIA AND
21 CHURCHES -- I HAVE NEVER, IN ALL MY LIFE, WORKED WITH A MORE
22 DEDICATED GROUP OF PEOPLE, MORE PROFESSIONAL, MORE
23 HARDWORKING, AND IT HAS REALLY BEEN AN HONOR.

24 I ALSO REJOICE -- AS OTHERS HAVE MENTIONED,

1 BOARD MEMBERS AND OTHERS HAVE REFERRED TO THE PROGRESS WE'VE
2 MADE -- I HAVE WATCHED THAT HAPPEN IN THE LAST DECADES, AND
3 I REJOICE IN THE PROGRESS IN WHAT REALLY IS THE OLDEST
4 ASSIGNMENT GIVEN TO THE HUMAN SPECIES. IT'S IN GENESIS,
5 CHAPTER 2, "TAKE CARE OF THE GARDEN." THANK YOU.

6 (APPLAUSE.)

7 ORAL REPORT ON THE STATUS OF THE 21ST CENTURY POLICY
8 DEVELOPMENT PROCESS

9 (DONE BY MR. JONES DURING ORAL REPORTS FROM
10 BOARD MEMBERS.)

11 AGENDA ITEM V: CONTINUED BUSINESS AGENDA ITEMS, AND

12 AGENDA ITEM VI: CONSENT AGENDA

13 (NONE PER PENNINGTON'S OPENING REMARKS.)

14 AGENDA ITEM VII: NEW BUSINESS AGENDA ITEM

15 ITEM NO. 2: CONSIDERATION OF A REVISED SOLID WASTE
16 FACILITY PERMIT FOR THE PACHECO PASS SANITARY LANDFILL,
17 SANTA CLARA COUNTY

18 CHAIRMAN PENNINGTON: OKAY. WE'VE DONE THE
19 21ST CENTURY, AND SO I GUESS WE'LL MOVE TO ITEM NO. 2,
20 CONSIDERATION OF A REVISED SOLID WASTE FACILITY PERMIT FOR
21 THE PACHECO PASS SANITARY LANDFILL IN SANTA CLARA COUNTY.
22 JULIE NAUMAN.

23 MS. NAUMAN: GOOD MORNING, MR. CHAIRMAN AND
24 MEMBERS, JULIE NAUMAN, DEPUTY DIRECTOR OF THE PERMITTING AND

1 ENFORCEMENT DIVISION. BEFORE WE HAVE STAFF PRESENT THIS
2 ITEM I JUST WANTED TO HIGHLIGHT FOR YOU TWO POLICY ISSUES
3 THAT ARE RELEVANT TO YOUR CONSIDERATION OF THIS ITEM. ONE
4 OF THESE IS AN ISSUE THAT HAS NOT COME BEFORE THE BOARD
5 PREVIOUSLY, WHILE THE OTHER ISSUE INVOLVES A POLICY THAT THE
6 BOARD ADOPTED BACK IN 1994, AND I WANTED TO TAKE THIS
7 OPPORTUNITY JUST TO REFRESH YOUR MEMORIES WITH RESPECT TO
8 THAT POLICY.

9 WHEN THE BOARD CONSIDERS A PERMIT WE'RE
10 GUIDED BY TITLE 27, WHICH LISTS THE REQUIRED PARTS OF A
11 PROPOSED PERMIT PACKAGE. THE REQUIRED ELEMENTS INCLUDE, AND
12 WE OFTEN TALK ABOUT ALL OF THESE IN OUR STAFF REPORT TO YOU,
13 ISSUES SUCH AS COMPLIANCE WITH CEQA, CONSISTENCY WITH STATE
14 MINIMUM STANDARDS, CLOSURE PLAN AND FINANCIAL ASSURANCES,
15 REPORT OF FACILITY INFORMATION, AND THE CONFORMANCE FINDING,
16 WHICH REQUIRES THE STATEMENT THAT THE FACILITY IS IN FACT IN
17 COMPLIANCE WITH PUBLIC RESOURCES CODE 50000 OR 50001.

18 THESE SECTIONS REQUIRE THAT FOR ANY NEW OR
19 EXPANDING SOLID WASTE FACILITY THE LOCATION OF THE FACILITY
20 MUST BE IDENTIFIED IN THE APPROVED COUNTYWIDE SITING
21 ELEMENT. THE SITING ELEMENT IS A PART OF THE COUNTYWIDE
22 INTEGRATED WASTE MANAGEMENT PLAN, WHICH WE COMMONLY REFER TO
23 AS THE CIWMP. THE ISSUE OF CONFORMANCE WITH THE SITING
24 ELEMENT HAS BEEN IDENTIFIED BY STAFF AS AN ISSUE NEEDING

1 FURTHER BOARD DISCUSSION AND DIRECTION.

2 DURING OUR PRESENTATION OF ITEM NO. 2,
3 ELLIOT BLOCK, OF THE LEGAL OFFICE, WILL ADDRESS THE POLICY
4 QUESTION WITH YOU.

5 THE SECOND ISSUE I'D LIKE TO BRING TO YOUR
6 ATTENTION IS THE REQUIREMENT THAT WE DETERMINE THAT A
7 FACILITY MEET STATE MINIMUM STANDARDS, SUCH AS DUST, GAS,
8 DAILY COVER, JUST TO MENTION A FEW.

9 BACK IN 1994, THE BOARD CONSIDERED AND
10 ADOPTED A POLICY FOR THE REVIEW OF SOLID WASTE FACILITY
11 PERMITS WHERE VIOLATIONS OF STATE MINIMUM STANDARDS EXIST.
12 THE POLICY ADDRESSES LONG-TERM VIOLATIONS, MEANING THOSE
13 VIOLATIONS SUCH AS GAS CONTROL, THAT TYPICALLY WOULD TAKE
14 MORE THAN 90 DAYS TO CORRECT.

15 UNDER THAT POLICY THE BOARD MUST MAKE THE
16 FOLLOWING FINDINGS: (1) THAT THERE IS NO IMMEDIATE THREAT
17 TO PUBLIC HEALTH, SAFETY, OR THE ENVIRONMENT; (2) THE
18 OPERATOR HAS SUBMITTED AN INTERIM GAS CONTROL PLAN THAT
19 DETAILS THE PROBLEM AND HOW THE PROBLEM OR VIOLATION WILL BE
20 CORRECTED; (3) THE LEA HAS PREPARED AN ENFORCEMENT ORDER
21 IDENTIFYING THE ELEMENTS TO BE COMPLETED IN ORDER TO ACHIEVE
22 COMPLIANCE BY A SPECIFIED DATE; AND, FINALLY, THE OWNER OR
23 OPERATOR IS IN FACT MAKING A GOOD-FAITH EFFORT TO COMPLY
24 WITH THE ENFORCEMENT ORDER AND/OR FOLLOWING THE ACCEPTED

1 INTERIM GAS CONTROL PLAN TO CORRECT THE VIOLATION.

2 OVER THE PAST FOUR YEARS THE BOARD HAS
3 APPROVED APPROXIMATELY A DOZEN SOLID WASTE FACILITY PERMITS
4 UNDER THIS LONG-TERM VIOLATIONS POLICY.

5 ITEM NO. 2, THE PACHECO PASS SITE, HAS BEEN
6 ON OUR INVENTORY OF FACILITIES WHICH VIOLATES STATE MINIMUM
7 STANDARDS SINCE 1977. THE SITE MEETS ALL THE CRITERIA OF
8 THE BOARD'S LONG-TERM GAS VIOLATION PERMIT POLICY. BUT,
9 SINCE THERE'S A LENGTHY DISCUSSION OF THE SITE'S HISTORY
10 RELATIVE TO GAS VIOLATIONS I WANTED TO PROVIDE YOU THIS
11 BACKGROUND ON THE POLICY SO THAT YOU CAN UNDERSTAND HOW OUR
12 STAFF HAS APPLIED THE POLICY TO THIS PERMIT, AND TO ITS
13 RECOMMENDATION.

14 SO, WITH THAT BACKGROUND, I'D NOW LIKE TO
15 TURN THE PRESENTATION OVER TO JOHN WHITEHILL.

16 MR. WHITEHILL: GOOD MORNING. THIS ITEM, AS
17 MENTIONED, IS CONSIDERATION OF THE REVISED PERMIT FOR THE
18 PACHECO PASS SANITARY LANDFILL, WHICH IS LOCATED IN THE
19 UNINCORPORATED SOUTHERN PORTION OF SANTA CLARA COUNTY, ABOUT
20 FOUR MILES EAST OF THE CITY OF GILROY.

21 THE 1985 PERMIT IS BEING REVISED TO REFLECT
22 CHANGES ASSOCIATED WITH THE PREVIOUSLY UNKNOWN FAULTS THAT
23 WERE DISCOVERED DURING EXCAVATION OF AN EXPANSION AREA THAT
24 WAS APPROVED IN 1985. AS A RESULT, FUTURE CELLS WILL NOW

1 ONLY BE ALLOWED TO BE FILLED WITH INERT WASTE, AND THE CELL
2 THAT THEY'RE CURRENTLY IN IS THE LAST CELL THAT WILL BE
3 ALLOWED TO ACCEPT MUNICIPAL SOLID WASTE, AND THAT WILL BE
4 FILLED IN APPROXIMATELY THE YEAR 2004.

5 THE OTHER CHANGES ARE THAT THEY WILL NOW
6 ACCEPT FRIABLE ASBESTOS, IN ADDITION TO ALL THE OTHER INERT
7 WASTE THAT THEY'LL BE ACCEPTING IN THOSE CELLS. AND THE NEW
8 PERMIT WILL REFLECT THAT FACT THAT THEY'LL BE RECEIVING
9 OCCASIONAL PEAK TONNAGES OF UP TO A THOUSAND TONS PER DAY.

10 ALSO, THERE HAVE BEEN ADDITIONAL
11 ENVIRONMENTAL CONTROLS AND SITE IMPROVEMENTS AT THE SITE.

12 AS THIS ITEM WENT TO PRINT THERE WERE STILL
13 TWO OUTSTANDING ISSUES, FINANCIAL ASSURANCE AND CONFORMANCE
14 WITH CIWMP, AS MENTIONED EARLIER. WE HAVE SINCE VERIFIED
15 THAT THE OPERATOR IS IN COMPLIANCE WITH THE FINANCIAL
16 ASSURANCE REQUIREMENTS, AND OUR LEGAL STAFF WILL DISCUSS THE
17 CIWMP CONFORMANCE ISSUES IN A MOMENT.

18 I WOULD ALSO LIKE TO POINT OUT, AGAIN, THAT
19 THIS FACILITY IS CURRENTLY IN VIOLATION OF THE BOARD'S
20 LANDFILL GAS STANDARDS. HOWEVER, WE HAVE BEEN ABLE TO MAKE
21 THE FINDINGS OF THE LONG-TERM GAS VIOLATION POLICY.

22 AS MENTIONED EARLIER, WE HAVE MADE THE
23 FINDING THAT THERE IS NO IMMEDIATE THREAT TO PUBLIC
24 HEALTH/SAFETY, OR THE ENVIRONMENT. IT'S A REMOTE LANDFILL,

1 THERE IS NO STRUCTURES WITHIN A THOUSAND FEET. THE NEAREST
2 RESIDENCE IS ABOUT 3,000 FEET AWAY. THE SURROUNDING
3 PROPERTY IS ZONED AGRICULTURAL, AND THE NEAREST PROPERTY
4 THAT'S AFFECTED IS A PART OWNER OF THE LANDFILL.

5 THE OTHER FINDING WE MADE IS THAT THE
6 OPERATOR HAS SUBMITTED AN INTERIM GAS CONTROL PLAN, AND IT
7 SHOWS THAT THEY'LL BE ABLE TO USE THE SAME PLAN THAT BROUGHT
8 TWO OTHER WELLS INTO COMPLIANCE, AND THAT THEY EXPECT TO BE
9 IN COMPLIANCE BY THIS SPRING.

10 ALSO, THE LEA HAS PREPARED AN ENFORCEMENT
11 ORDER, AND THE LATEST EDITION OF THE GAS CONTROL PLAN HAS
12 BEEN INCORPORATED INTO THAT ENFORCEMENT ORDER.

13 AND, JUST AS A CORRECTION, THE SITE'S BEEN ON
14 THE INVENTORY SINCE 1997. I THINK YOU SAID '77.

15 AND THE OPERATOR, WE BELIEVE, IS MAKING A
16 GOOD-FAITH EFFORT TO COMPLY WITH THE ENFORCEMENT ORDER. AS
17 I MENTIONED, THEY'VE ALREADY BROUGHT A FEW OF THE WELLS INTO
18 COMPLIANCE. THEY HAVE A PLAN TO BRING IT INTO COMPLIANCE,
19 AND WE BELIEVE THEY'RE TAKING THE NECESSARY STEPS TO REACH
20 THEIR GOALS THAT ARE IN THE PLAN, AND IN THE NOTICE AND
21 ORDER.

22 SO, IN THIS PARTICULAR INSTANCE, STAFF FEEL
23 THAT THE BENEFITS OF UPDATING THIS PERMIT AT THIS TIME
24 OUTWEIGH THE POTENTIAL IMPACTS OF THE GAS AS IT EXISTS RIGHT

1 NOW.

2 IN SUMMARY, THE LEA AND BOARD STAFF HAVE MADE
3 THE FOLLOWING FINDINGS. THAT THE LEAD AGENCY AND OPERATOR
4 HAVE COMPLIED WITH THE REQUIREMENTS OF THE CALIFORNIA
5 ENVIRONMENTAL QUALITY ACT. WE ALSO MADE THE FINDING THAT
6 THE DESIGN AND OPERATION ARE IN COMPLIANCE WITH STATE
7 MINIMUM STANDARDS, WITH THE ACCEPTANCE OF THE LANDFILL GAS
8 VIOLATION MENTIONED. THE PROPOSED PERMIT IS CONSISTENT WITH
9 THE STANDARDS ADOPTED BY THE BOARD, INCLUDING THE BOARD'S
10 LONG-TERM GAS VIOLATION POLICY.

11 HOWEVER, BOARD STAFF HAVE NOT YET MADE THE
12 FINDING THAT THIS FACILITY IS CONSISTENT WITH THE APPROVED
13 COUNTY INTEGRATED WASTE MANAGEMENT PLAN. AND, FOR THIS
14 REASON, BOARD DO NOT HAVE A RECOMMENDATION AT THIS TIME.
15 AND ELLIOT BLOCK, FROM OUR LEGAL OFFICE, WILL TALK ABOUT
16 THIS ISSUE.

17 MR. BLOCK: BEING PASSED OUT TO YOU RIGHT NOW
18 IS A COPY OF THE TWO RELEVANT PAGES FROM THE SITING ELEMENT
19 THAT RELATE TO PACHECO PASS, AS I GET THE OVERHEADS HERE
20 LINED UP.

21 THE FIRST THING, BEFORE I START DISCUSSING
22 THIS ISSUE, IS I WANTED TO REEMPHASIZE SOMETHING THAT JOHN
23 JUST SAID. WHICH IS THAT THE STAFF IS NOT MAKING A
24 RECOMMENDATION, IN ONE WAY OR ANOTHER, REGARDING THE

1 CONFORMANCE FINDING FOR THIS FACILITY. WHAT WE ARE DOING IS
2 BRINGING FORWARD AN ISSUE THAT THE BOARD HAS NOT HAD AN
3 OPPORTUNITY TO ADDRESS. THIS IS, IN FACT, THE FIRST TIME
4 THAT IT'S COME UP WHERE WE HAVE A COUNTY THAT'S POST-GAP,
5 SUBJECT TO A -- A INTEGRATED WASTE MANAGEMENT PLAN HAS BEEN
6 APPROVED, WHERE A PROPOSED EXPANSION OF A FACILITY IS COMING
7 FORWARD THAT HAS A DIFFERENT DESCRIPTION THAN THE
8 DESCRIPTION THAT'S IN THE SITING ELEMENT.

9 SO, JUST BRIEFLY TO GO OVER THOSE, AS YOU'LL
10 SEE ON THE MONITOR IN FRONT OF YOU AND AROUND THE ROOM, THE
11 PROPOSED SOLID WASTE FACILITY BEFORE YOU HAS -- SHOWS UP TO
12 1,000 TONS A DAY, OR WHAT WE TYPICALLY REFER TO AS A PEAK.
13 THE PROJECTION IN THE REPORT OF DISPOSAL SITE INFORMATION,
14 THE RDSI, SHOWS THAT THEY EXPECT TO BE TAKING 425 TONS PER
15 DAY ON AVERAGE.

16 THE APPROVED SITING ELEMENT DESCRIPTION --
17 AND THAT'S THE COPY OF WHICH YOU HAVE -- I'VE JUST HANDED
18 OUT -- DESCRIBES THIS SITE AS HAVING A MAXIMUM PERMITTED
19 TONNAGE OF 288 TONS PER DAY, WITH AN AVERAGE DAILY TONNAGE
20 OF 215 TONS PER DAY. AND, ALSO DOES SPECIFY THAT NO
21 EXPANSION PLANS ARE BEING CONSIDERED. SO, IN JUST LOOKING
22 AT THE AVERAGE DAILY TONNAGE, THE INCREASE IN THE AVERAGE
23 DAILY TONNAGE FROM WHAT'S DESCRIBED IN THE SITING ELEMENT IS
24 210 TONS PER DAY.

1 THE REASON THAT WE HAVE AN ISSUE TO BRING
2 BEFORE THE BOARD TODAY IS A RESULT OF SOME AMBIGUITIES IN
3 THE STATUTE THAT APPLIES AFTER THE INTEGRATED WASTE
4 MANAGEMENT PLAN HAS BEEN APPROVED.

5 PUBLIC RESOURCES CODE SECTION 50001 PROVIDES
6 THAT NO PERSON SHALL ESTABLISH OR EXPAND A SOLID WASTE
7 FACILITY UNLESS. AND IN THE CASE OF A DISPOSAL FACILITY
8 THIS STATUTE PROVIDES THAT THE LOCATION OF WHICH IS
9 IDENTIFIED IN THE COUNTYWIDE SITING ELEMENT.

10 TWO ISSUES ARE RAISED BY THIS LANGUAGE. THE
11 FIRST ONE IS WHETHER OR NOT THE PROPOSED PERMIT MUST BE
12 CONSISTENT WITH THE LOCATION IDENTIFIED IN THE SITING
13 ELEMENT, WHAT I'VE SOMETIMES DESCRIBED AS THE DOT ON THE
14 MAP, AND THAT'S WHY I GAVE YOU TWO PAGES FROM THE SITING
15 ELEMENT, ONE PAGE IS THE MAP AND ONE PAGE IS THE
16 DESCRIPTION. OR, DOES IT HAVE TO BE CONSISTENT WITH THE
17 DESCRIPTION THAT'S CONTAINED IN THE SITING ELEMENT.

18 DURING THE GAP PERIOD, BASED ON SOME SITE
19 DIFFERENCES IN THE LANGUAGE AND THE STATUTE, WE HAVE ALWAYS
20 LOOKED AT THE DESCRIPTION AND MADE THE DETERMINATION THAT
21 THERE'S CONSISTENCY THERE IN THE DESCRIPTION. THE LANGUAGE
22 IS SOMEWHAT DIFFERENT IN 50001 AND WOULD ALLOW FOR AN
23 INTERPRETATION THAT THE DOT ON THE MAP IS, IN FACT,
24 SUFFICIENT IN THE POST-GAP PERIOD.

1 IT'S A SIGNIFICANT ENOUGH ISSUE, IN TERMS OF
2 THE IMPACT ON HOW PERMITS COME FORWARD, THAT STAFF WANTED TO
3 BRING THIS ISSUE BEFORE THE BOARD FOR SOME DISCUSSION. AND
4 I'M GOING TO TALK A LITTLE BIT ABOUT THAT, SOME OF THE OTHER
5 PROBLEMS WITH THAT AMBIGUITY IN A MOMENT.

6 THE SECOND ISSUE THAT'S RAISED IS WHAT IS AN
7 EXPANSION. IS THAT, UNDER THE -- DURING THE GAP PERIOD
8 EXPANSION HAS GENERALLY BEEN VIEWED AS INVOLVING A CHANGE IN
9 DAILY TONNAGE AT A LANDFILL, AND THERE'S SOME LANGUAGE IN
10 THE GAP STATUTE THAT PROVIDES THAT.

11 THE QUESTION BECOMES, IN THE POST-GAP
12 SITUATION, WHETHER WE SHOULD BE LOOKING AT DAILY TONNAGE OR
13 WHETHER WE SHOULD BE LOOKING AT CHANGE IN THE CAPACITY OF
14 THE LANDFILL. THE PRIMARY PURPOSE OF THE SITING ELEMENT
15 HAVING TO DO WITH THE 15-YEAR CAPACITY REQUIREMENT.

16 SO, JUST TO BRIEFLY OUTLINE THOSE ISSUES. IN
17 TERMS OF THE ISSUE AS TO WHETHER CONFORMANCE REQUIRES
18 CONSISTENCY IN TERMS OF THE LOCATION, OR THE DESCRIPTION OF
19 THE FACILITY, AS MENTIONED EARLIER, THE TEXT OF PUBLIC
20 RESOURCES CODE SECTION 50001 DOES REFERENCE THE LOCATION OF
21 WHICH IS IDENTIFIED. AND I THINK THAT YOU'LL HEAR FROM SOME
22 FOLKS IN A FEW MOMENTS TO SAY THAT THAT LANGUAGE SEEMS TO BE
23 PLAIN ENOUGH, A DOT ON THE MAP SHOULD BE SUFFICIENT IN THAT
24 WE WOULD ALLOW FOR A CONFORMANCE FINDING.

1 THE PROBLEM THAT WE HAVE IDENTIFIED IS THAT
2 THE STATUTORY LANGUAGE ALSO APPLIES TO NOT JUST NEW
3 FACILITIES, BUT EXPANSIONS OF EXISTING FACILITIES. AND, SO
4 IT RAISES AN ISSUE AS TO IF THIS APPLIES TO AN EXPANSION, BY
5 DEFINITION AN EXPANSION OF A FACILITY WILL ALWAYS HAVE --
6 THAT DOT WILL ALWAYS BE ON THE MAP, AND SO WHY WOULD IT BE
7 NECESSARY TO SEND IT THROUGH THE CONFORMANCE-FINDING
8 PROCESS.

9 AND THEN ALSO, IN TERMS OF LOOKING AT JUST
10 THE CONTEXT OF THE SITING ELEMENT, ONE OF THE PURPOSES OF
11 THE SITING ELEMENT IS TO ALLOW FOR THE COORDINATION OF WASTE
12 MANAGEMENT PLANNING BY ALL THE CITIES WITHIN A COUNTY. IT
13 WOULD APPEAR THAT SOME DESCRIPTION OF THE OPERATIONS, AND
14 NOT JUST THE LOCATION ON A MAP, WOULD BE NECESSARY FOR THAT
15 PURPOSE.

16 THE OTHER ISSUE THAT IS RAISED BY THE STATUTE
17 IS WHAT IS EXPANSION. AS I MENTIONED PREVIOUSLY, THE GAP
18 STATUTE SPECIFICALLY IDENTIFIES AN EXPANSION AS SOMETHING
19 THAT INVOLVES A SIGNIFICANT INCREASE IN THE TONNAGE HANDLED
20 AT THE LANDFILL. THE STATUTE THAT WE'RE DEALING WITH NOW
21 JUST SIMPLY USES THE WORD "EXPANSION" AND DOESN'T PROVIDE
22 ANY ADDITIONAL DESCRIPTION.

23 SO, ONE POSSIBLE WAY OF INTERPRETING THAT IS
24 THAT EXPANSION, REALLY IT RELATES TO JUST SOMETHING THAT

1 WOULD RESULT IN A SIGNIFICANT CHANGE IN THE CAPACITY OF THE
2 FACILITY. THIS IS BASED ON THE IDEA THAT THE PURPOSE OF THE
3 SITING ELEMENT IS TO ENSURE 15 YEARS OF DISPOSAL CAPACITY,
4 AND AS LONG AS THE DISPOSAL -- THAT 15-YEAR CAPACITY WAS NOT
5 AFFECTED, THE CONFORMANCE FINDING SHOULD NOT BE A PROBLEM.

6 A SECOND WAY TO LOOK AT THAT IS, HOWEVER, TO
7 USE THE SAME INTERPRETATION THAT'S BEEN USED DURING THE GAP
8 PERIOD, WHICH IS TO LOOK AT CHANGE IN DAILY TONNAGE. AND
9 THIS WOULD BE BASED ON THE IDEA THAT THE PURPOSE OF THE
10 SITING ELEMENT IS TO ALLOW FOR COORDINATED PLANNING OF WASTE
11 STRATEGIES THAT -- RECOGNIZING THAT THE CHANGES IN FLOW OF
12 SOLID WASTE WITHIN THE COUNTY IS THE TYPE OF INFORMATION
13 THAT YOU WOULD WANT THE CITIES TO HAVE.

14 WE HAVE SPENT SOME TIME RESEARCHING
15 LEGISLATIVE HISTORY, AND TRYING TO SEE IF THERE WAS
16 SOMETHING THAT WE COULD BRING FORWARD TO THIS DISCUSSION, TO
17 SAY THAT ONE INTERPRETATION OR THE OTHER WAS A MORE OBVIOUS
18 RIGHT ANSWER THAN THE OTHER. AND, UNFORTUNATELY, IN TERMS
19 OF DOCUMENTARY EVIDENCE, WE HAVE NOT FOUND SOME THINGS. I
20 THINK YOU ARE GOING TO HEAR FROM SOME PEOPLE IN A FEW
21 MOMENTS THEIR RECOLLECTIONS OF WHAT THE INTENT OF THE
22 STATUTE WAS WHEN IT WAS FIRST ENACTED.

23 SO, IN TERMS OF OPTIONS THAT THE BOARD HAS
24 TODAY. THE BOARD COULD CERTAINLY FIND THAT THIS PROPOSED

1 PERMIT IS IN CONFORMANCE WITH THE SITING ELEMENT, IF IT
2 DECIDES THAT LOCATION IS SUFFICIENT, IDENTIFICATION OF
3 LOCATION IS SUFFICIENT. OR, EVEN IF A CONSISTENT
4 DESCRIPTION IS NECESSARY, THAT AN EXPANSION IS ONLY
5 SOMETHING THAT AFFECTS THE 15-YEAR CAPACITY. IN THIS
6 PARTICULAR CASE, THERE ARE NO ISSUES RELATED TO THE 15-YEAR
7 CAPACITY FROM THE PROPOSED EXPANSION. THE COUNTY AND THE
8 FACILITY ARE WELL OVER THAT NUMBER.

9 THE BOARD HAS THE OPTION OF FINDING THAT
10 THERE IS NO CONFORMANCE HERE, BECAUSE CONSISTENCY WITH THE
11 DESCRIPTION IN THE SITING ELEMENT IS REQUIRED, AND EXPANSION
12 DOES INCLUDE THE IDEA OF AN INCREASE IN DAILY TONNAGE. THE
13 CONSEQUENCES OF FINDING THAT THE PERMIT IS NOT IN
14 CONFORMANCE WOULD BE THAT THE BOARD WOULD BE REQUIRED TO
15 OBJECT TO THE PERMIT.

16 ONE ADDITIONAL OPTION, WHICH I HAVE ON THIS
17 LIST -- BUT, OF COURSE, IT DEPENDS ON AT THE OPTION OF THE
18 OPERATORS -- THAT THE OPERATOR WERE WILLING TO WAIVE TIME
19 FOR CONSIDERATION OF THE PERMIT BY THE BOARD, WE COULD PUT
20 THIS MATTER OVER FOR A PERIOD OF TIME AND HAVE A POLICY
21 DISCUSSION, A BROADER DISCUSSION ABOUT THIS ISSUE. BUT,
22 AGAIN, THAT WOULD BE UP TO THE OPERATOR, AND I DON'T BELIEVE
23 THAT -- I'VE LEFT IT ON THE LIST OF OPTIONS, BUT I'M NOT
24 SURE THAT THAT'S SOMETHING THAT THEY'RE WILLING TO PUT INTO

1 PLAY.

2 AND I DO BELIEVE ACTUALLY THERE IS A FOURTH
3 OPTION THAT THE OPERATOR'S PROBABLY GOING TO OFFER, BUT I
4 THINK I'LL LET THEM DESCRIBE THAT FOURTH OPTION FOR YOU.

5 ARE THERE ANY QUESTIONS?

6 CHAIRMAN PENNINGTON: QUESTIONS OF STAFF?
7 SENATOR ROBERTI?

8 MEMBER ROBERTI: SORT OF A QUESTION OF STAFF
9 AND AN OBSERVATION ON MY PART. I SEE IN THIS ITEM, AND ON
10 AN ITEM THAT'S COMING UP, SIMILAR QUESTIONS. AND THE PEOPLE
11 WHO ARE PETITIONING THE BOARD RIGHT NOW -- I GUESS IN OUR
12 POSITION, IN CASE THERE IS A CHANGE OR A REDIRECTION OF
13 BOARD POLICY, OR A CLARIFICATION OF WHAT OUR DIRECTION IS,
14 MAYBE IT SHOULDN'T REBOUND AGAINST THESE APPLICANTS WHO HAVE
15 NO NOTICE, UNLESS THERE'S SOME PUBLIC HAZARD WHICH IS
16 INVOLVED.

17 WHICH I DON'T SENSE FROM MY BRIEFINGS AND --
18 THAT THAT'S GOING TO BE THE CASE. SO, HOW I VOTE ON THE TWO
19 ISSUES THAT ARE GOING TO BE COMING BEFORE US MAY NOT
20 INDICATE HOW I REALLY FEEL ABOUT THE ISSUE.

21 I TEND TO THINK, FOR A NUMBER OF REASONS,
22 THAT THESE PROPOSALS THAT I UNDERSTAND ARE GOING TO BE
23 COMING BEFORE US IN GREATER FREQUENCY, ALL SHOULD BE
24 CONSIDERED EXPANSIONS OF SOLID WASTE FACILITIES. AND I'M

1 NOT TALKING ABOUT TODAY'S MATTERS.

2 I DON'T UNDERSTAND WHAT DIFFERENCE IT MAKES,
3 AN INCREASE IN TONNAGE, OR A EXPANSION GEOGRAPHICALLY AS A
4 SITE, AS FAR AS DISTURBANCES TO THE AIR AND THE WATER MAY BE
5 CONCERNED, IT STRIKES ME AS ALL THE SAME.

6 AND, I TEND TO THINK THAT'S THE CLEAR MEANING
7 OF WHAT THE LEGISLATION IS. I, FRANKLY, DON'T SEE A GREAT
8 QUESTION. BUT DEFERRING TO STAFF, AND DEFERRING TO COUNSEL,
9 THAT THERE IS A COMPLICATION HERE, I'M WILLING TO LET THAT
10 CONDITION MY VOTE FOR TODAY.

11 ANOTHER POINT I THINK THAT'S IMPORTANT AS TO
12 WHY THE COUNTYWIDE SITING ELEMENT SHOULD BE CONSIDERED MORE
13 INCLUSIVE AND, THEREFORE, MORE RESTRICTIVE AS TO WHAT
14 COUNTIES CAN OR CANNOT DO, OR SEEK WAIVERS ON, IS THIS ALL
15 DOES INVOLVE NOTICE. NOTICE TO PEOPLE WHO MAY BE AFFECTED,
16 WHETHER THEY'RE PROPERTY OWNERS THAT'RE NEARBY, WHETHER
17 THEY'RE RESIDENTS -- AND I UNDERSTAND IN THE TWO CASES
18 BEFORE IS THAT IS NOT A MAJOR CONSIDERATION. BUT, THE
19 PRECEDENT THAT WE ESTABLISH FROM THINGS THAT ARE NOT MAJOR
20 CONSIDERATIONS CAN AFFECT THOSE SITUATIONS WHERE YOU DO HAVE
21 A MAJOR CONSIDERATION OF NOTICE.

22 AND I DON'T KNOW OF ANYTHING THAT'S MORE
23 IMPORTANT THAN NOTICE TO AFFECTED PARTIES WHEN YOU HAVE AN
24 EXPANSION OF A SOLID WASTE FACILITY. AND I THINK IT'S

1 ABSOLUTELY CLEAR THAT AN INCREASE IN TONNAGE IS AN EXPANSION
2 OF A SOLID WASTE FACILITY IN ANYBODY'S BOOK, EXCEPT SOMEBODY
3 WHO'S TRYING TO CUT VERY FINE LINES.

4 SO, TODAY'S VOTE -- BECAUSE I UNDERSTAND THAT
5 THERE COULD BE A CERTAIN AMOUNT OF UNFAIRNESS, IF SUDDENLY
6 THE BOARD REDIRECTS POLICY -- AND ONE VOTE ON A BOARD OF SIX
7 IS IMPORTANT -- WOULDN'T NECESSARILY BE VERY FAIR. AND
8 SINCE I TRUST STAFF'S PROTESTATIONS TO ME -- DURING THE
9 BRIEFINGS AND WHAT I ANTICIPATE I'LL HEAR THIS MORNING --
10 THAT THERE ISN'T A MAJOR HAZARD INVOLVED, I INTEND TO VOTE
11 FOR THIS PACHECO PASS AND THE BUTTE COUNTY ISSUE.

12 BUT, TO SERVE NOTICE THAT ON THE FUTURE -- MY
13 THOUGHT ON THE MATTER IS PRETTY CLEAR, IT'S AN EXPANSION.
14 AND, ABSENT SOME ENORMOUS EMERGENCY TO THE CONTRARY, I
15 INTEND THAT TO BE WHAT GUIDES ME IN FUTURE VOTES. AND I
16 GUESS MY LITTLE NARRATION RIGHT NOW IS JUST TO SET NOTICE OF
17 HOW I FEEL.

18 CHAIRMAN PENNINGTON: VERY GOOD. ANY OTHER
19 QUESTIONS OF STAFF? OKAY, THANK YOU.

20 DENISE DELMATIER: DID YOU WANT TO TALK?

21 MR. SWEETSER: WELL, ACTUALLY I CAN CONDENSE
22 THIS DOWN INTO ONE, HOPEFULLY. I'M LARRY SWEETSER, DIRECTOR
23 OF REGULATORY AFFAIRS FROM NORCAL WASTE SYSTEM,
24 OWNER/OPERATOR OF THE SITE.

1 I THINK THIS IS A PRETTY SIMPLE ISSUE. AT
2 LEAST IT HAS BEEN IN PAST PERMITS IN OTHER FACILITIES WE'VE
3 GONE TO. IT IS AN INTERESTING QUESTION THAT HAS COME UP,
4 AND THERE MIGHT BE SOME APPLICATIONS THERE. AND I THINK, IF
5 I UNDERSTOOD ELLIOT RIGHT, THE FOURTH OPTION ALLUDED TO IS
6 THE ONE WE WERE TALKING ABOUT AS A POLICY ISSUE. GIVEN THE
7 AMOUNT THE FREQUENCY THIS ISSUE'S BEEN COMING UP, AND THE
8 INTENSITY, NO DOUBT IT IS A POLICY ISSUE TO BE LOOKED AT,
9 BOTH IN DEFINITIONS AND IN APPLICATION.

10 BUT, WHAT WE HAVE ON THIS PERMIT IS NOT A
11 CIRCULAR ARGUMENT, IN OUR MINDS, IT'S MORE A SEPARATE
12 ARGUMENT OF THE -- BETWEEN THE PERMIT AND THE PLANNING
13 DOCUMENT.

14 THE BOTTOM LINE FOR THE COUNTY -- AND THEY'VE
15 STATED IT MANY TIMES, BOTH WITHIN THE SITING ELEMENT AND
16 OTHER AREAS -- IS, WITH OR WITHOUT THIS FACILITY THERE IS
17 ADEQUATE CAPACITY, SO THAT GUARANTEE IS THERE. IN FACT, WE
18 ACTUALLY DO HAVE AN IDENTIFICATION DESCRIPTION IN THE SITING
19 ELEMENT, AND THIS IS THE MOST CURRENT OF OUR SITE.

20 THE KEY POINT IS -- BEING POST-GAP -- THAT
21 OUR FACILITY DOES MEET THE REQUIREMENTS OF 50001 BY BEING --
22 THE LOCATION IS IDENTIFIED, AND THAT HAS ALWAYS BEEN
23 UNDERSTOOD TO BE A DOT ON THE MAP, THAT'S WHAT WE'VE DONE.
24 WE'VE ACTUALLY DONE MORE IN THIS CASE. IF THERE ARE CHANGES

1 WITHIN THE SITING ELEMENT THEN IT'S APPROPRIATE THAT WE HAVE
2 THAT SITING ELEMENT LOOKED AT. BUT, WE DON'T SEE THAT AS
3 ENCOMPASSING A DELAY ON THE PERMIT'S PART. ESPECIALLY SINCE
4 THERE'S EXISTING CAPACITY AND SUFFICIENT CAPACITY THERE.

5 THERE'S NO DOUBT THAT THE SITING ELEMENT
6 NEEDS TO HAVE A LOT MORE INFORMATION THAT IS REQUIRED ON THE
7 CONFORMANCE FINDING. THAT'S WHAT THE PLAN WAS FOR.

8 AND THAT'S BASICALLY THE SHORT VERSION OF
9 WHAT WE NEED. I'M WILLING TO ANSWER ANY QUESTIONS. I THINK
10 WE'VE MADE A SITE-SPECIFIC STANCE.

11 WE'VE GOT AN OPERATOR HERE READY TO ANSWER
12 ANY QUESTIONS.

13 CHAIRMAN PENNINGTON: MR. EATON?

14 MEMBER EATON: YES. WITH REGARD TO -- AND,
15 FIRST, I SHARE SENATOR ROBERTI'S COMMENTS. AND, ACTUALLY WE
16 HAD LOOKED AT SOME OF IT. AND I THINK THAT NO MATTER WHAT
17 WE DO TODAY, WE OUGHT TO AT LEAST SOMEHOW INSTRUCT THE STAFF
18 TO COME BACK AS QUICKLY AS HUMANLY POSSIBLE WITH SOME
19 OPTIONS FOR THE BOARD. BECAUSE IF IT IS COMING UP WITH
20 REGULARITY -- TWO TODAY, HOW MANY WE KNOW NEXT MONTH AND THE
21 FOLLOWING MONTH -- THAT IF WE COULD JUST DO THAT I THINK
22 THAT WOULD BE HELPFUL.

23 THE INCREASED TONNAGE FOR THIS PARTICULAR
24 FACILITY -- AND YOU'RE GOING TO SEE A LOT MORE OF THIS,

1 BECAUSE YOU PROBABLY HAVE MANY MORE LEGAL MINDS, NOT THAT
2 THEY HAVE ANYTHING OVER ANYONE ELSE, BUT THEY SORT OF TRY TO
3 CROSS "T"S AND DOT "I"S -- IS THAT TONNAGE RELATED TO --
4 WHAT IS THAT INCREASED TONNAGE?

5 MR. SWEETSER: IT'S FOR THE OVERALL SITE.
6 THIS WHOLE PERMIT IS TO BRING US IN COMPLIANCE AND GET RID
7 OF ALL THE PROBLEMS WE'VE HAD IN THE PAST. IT WILL
8 ESSENTIALLY BRING US IN COMPLIANCE WITH OPERATING REALITIES
9 TODAY, AS WELL AS THE WASTE STREAMS AND OTHER THINGS WE
10 TAKE.

11 SO, THE AVERAGE TONNAGE -- THE TONNAGE
12 DESCRIBED IN HERE IS FOR THE SITE. IN REALITY WHAT WE'RE
13 LOOKING AT IS AN INCREASE IN THE INERT AREA. WE HAVE AN
14 INERT CELL THAT NEEDS TO BE FILLED, FOR VARIOUS REASONS, AND
15 THAT'S WHAT MOST OF THIS CAPACITY WILL BE DESIGNATED FOR.
16 AND IT'S A PEAK, USUALLY, IT'S NOT A REGULAR --

17 MEMBER EATON: AND THAT'S WHY I WAS KIND OF
18 ASKING, BECAUSE IN THIS SITUATION WE HAVE A CROSS-PURPOSE
19 WHERE WE HAVE A LOCAL JURISDICTION SAYING DUE TO A
20 PARTICULAR EARTHQUAKE ZONE YOU'RE NO LONGER ABLE TO PUT IN
21 CERTAIN KINDS OF WASTE.

22 MR. SWEETSER: EXACTLY.

23 MEMBER EATON: SO THAT I THINK IF YOU LOOK AT
24 A WRAPPER FROM A, YOU KNOW, COMMERCIAL ESTABLISHMENT, THAT

1 WOULD TEND -- I THINK IT'S FAIRLY OBVIOUS THAT IT'S LIGHTER
2 THAN A PIECE OF WOOD -- HOPEFULLY, EXCEPT IF IT'S Balsa
3 WOOD, PERHAPS -- BUT, GENERALLY.

4 AND SO, THEREFORE, PERHAPS IN YOUR SITUATION
5 THE INCREASED TONNAGE IS DUE MORE TO THE FACT OF THE -- AS
6 YOU SAID, THE INERT AS OPPOSED TO THE OTHER KINDS OF WASTE.

7 AND I WOULD JUST HOPE THAT THE STAFF LOOKS AT THAT ISSUE IN
8 A BALANCING, PERHAPS MAYBE AS A SERIES OF FACTORS, AS IT
9 CONSIDERS WHAT CONSTITUTES EXPANSION.

10 BUT I THINK OVERALL IT WOULD, BUT THERE ARE
11 THOSE KINDS OF EXCEPTIONS WHERE WEIGHT AND A COMPLICATION
12 DUE TO MEANS BEYOND YOUR CONTROL....

13 MR. SWEETSER: THERE HAS BEEN VERY LITTLE
14 SIGNIFICANT INCREASE IN MSW, MUNICIPAL SOLID WASTE, TONNAGE
15 THROUGHOUT THE YEARS. IN FACT, THERE'S QUITE A LOT OF
16 COMPETITION IN SANTA CLARA COUNTY FOR THAT WASTE STREAM. SO
17 WE DON'T EXPECT A MAJOR INCREASE THERE, IT'S THE INERT AREAS
18 THAT WHAT ARE A CONCERN.

19 AND, ABSOLUTELY, WE NEED TO COME BACK AND GET
20 THIS GUIDANCE. WE HAVE OTHER PERMITS PENDING, WE'VE HAD
21 SOME IN THE PAST WHERE THE ISSUE COMES UP, AND IT SEEMS TO
22 BE SOMETHING THAT NEEDS TO BE RESOLVED AS A POLICY ISSUE.
23 AND WE'D BE GLAD TO WORK WITH THE BOARD ON THAT ISSUE.

24 CHAIRMAN PENNINGTON: ANY OTHER QUESTIONS?

1 MR. SWEETSER: THANK YOU.

2 CHAIRMAN PENNINGTON: WE HAVE TWO OTHER PEOPLE WHO
3 HAVE ASKED TO SPEAK, IF NECESSARY, SO I'M NOT SURE IT'S
4 NECESSARY -- I'M SORRY, DENISE.

5 MS. DELMATIER: THANK YOU, MR. CHAIRMAN. DENISE
6 DELMATIER ON BEHALF OF NORCAL WASTE SYSTEMS.

7 I JUST WANTED TO ALSO THANK BOARD MEMBER
8 ROBERTI FOR HIS COMMENTS, AND WE AGREE WITH THOSE COMMENTS.

9 AND OBVIOUSLY, WE HAVE A NEW POLICY QUESTION THAT HAS BEEN
10 RAISED, WE'RE THE FIRST ONE OUT OF THE CHUTE HERE, AND WE'D
11 LIKE TO SEE THE BOARD CONVENE THE STAKEHOLDERS/INTERESTED
12 PARTIES TO ADDRESS THE POLICY ISSUE.

13 HOWEVER, SEPARATE AND APART FROM THIS PERMIT
14 APPLICATION. IT IS A MAJOR POLICY ISSUE THAT REQUIRES A
15 GREAT DEAL OF ATTENTION, AND ALL OF THE PARTIES SHOULD BE
16 BROUGHT TOGETHER, INCLUDING THE ENVIRONMENTAL COMMUNITY,
17 INCLUDING LOCAL GOVERNMENT, THE WASTE RECYCLING INDUSTRY, SO
18 THAT WE CAN PROVIDE A SOLUTION. AND IT MAY, IN FACT,
19 REQUIRE LEGISLATIVE CHANGE.

20 SO, WE ENCOURAGE THAT TO TAKE PLACE AS
21 QUICKLY AS QUICKLY AS POSSIBLE, BECAUSE WE DO HAVE PERMITS
22 COMING FORWARD. BUT WE WOULD ENCOURAGE THAT THAT TAKE PLACE
23 SEPARATE AND APART FROM THIS PERMIT APPLICATION, SINCE WE
24 WERE JUST GIVEN NOTICE, OBVIOUSLY, AS TO THIS NEW POLICY

1 ISSUE. AND WOULD ENCOURAGE THE BOARD, THEN, TO CONCUR IN
2 THIS PERMIT TODAY.

3 CHAIRMAN PENNINGTON: VERY GOOD. QUESTIONS? MR.
4 FRAZEE?

5 MEMBER FRAZEE: I WAS JUST GOING TO INDICATE THAT
6 THIS MAY BE A -- AND I THINK YOU BEAT ME TO THE PUNCH ON
7 THIS -- THAT THIS MAY BE BEYOND POLICY DECISION, IT MAY
8 REQUIRE LEGISLATION TO CORRECT THE AMBIGUITY IN LEGISLATION.

9 AS FAR AS MR. ROBERTI'S COMMENT ON THE NOTICE
10 PART OF THIS, I THINK IN EVERY ONE OF THESE PERMIT DEALINGS,
11 THAT THAT IS TAKEN CARE OF IN OUR FINDING ON THE ADEQUACY OF
12 THE ENVIRONMENTAL DOCUMENT, THAT'S WHERE THE NOTICE I
13 BELIEVE TAKES PLACE. AND, IF WE FIND THAT THE EIR WAS
14 PROPERLY HANDLED, THEN THAT CERTAINLY TAKES CARE OF ANY
15 NOTICE CONSIDERATIONS THAT WE WOULD HAVE, AND IT WOULD NOT
16 BE OUR RESPONSIBILITY BEYOND THAT TO BE ENGAGED IN ANY
17 REQUIREMENTS FOR NOTICE.

18 MEMBER ROBERTI: I TEND TO AGREE WITH YOU ON THAT,
19 EXCEPT I THINK FOR PURPOSES OF THE COUNTY AND I THINK THERE
20 WILL BE A NOTICE PROBLEM. I COULD BE WRONG.

21 CHAIRMAN PENNINGTON: OKAY. ANY OTHER QUESTIONS?
22 NO?

23 OKAY. I HAVE CHARLES BIRD.

24 MR. BIRD: YES, MR. FRAZEE ADDRESSED THE QUESTION

1 THAT I WAS GOING TO TALK ABOUT.

2 CHAIRMAN PENNINGTON: VERY GOOD, THANK YOU.

3 JIM DEWEESE, YOU SAID IF NECESSARY. DO YOU
4 THINK IT'S NECESSARY? I GUESS YOU DO.

5 MR. DEWEESE: I WILL KEEP IT BRIEF. I'M THE SOLID
6 WASTE MANAGER FROM BUTTE COUNTY, SO OBVIOUSLY WE ARE
7 CONCERNED HOW THE PACHECO PASS LANDFILL ISSUES GOES, BECAUSE
8 WE FEEL OURS WILL PROBABLY GO THE SAME WAY SINCE WE HAVE THE
9 SAME ISSUE.

10 SO, WE JUST WANTED TO OFFER THE OPPORTUNITY
11 TO THE BOARD, IF YOU WOULD LIKE US TO PRESENT OUR VIEWPOINTS
12 ON THE CONFORMANCE FINDING ISSUE, THAT IT MAY BE MORE
13 APPROPRIATE TO DO SO AT THIS TIME RATHER THAN UNDER ITEM NO.
14 4. AND, YOU KNOW, I WILL LEAVE THAT TO THE DISCRETION OF
15 THE BOARD.

16 CHAIRMAN PENNINGTON: I THINK IT'S FINE FOR YOU TO
17 GO AHEAD NOW.

18 MR. DEWEESE: OKAY. THAT BEING THE CASE, I WOULD
19 LIKE TO TURN IT OVER TO SOME PEOPLE WHO ARE MORE UP TO SPEED
20 ON THE LEGAL ISSUES AND THE REGULATORY ISSUES THAN I AM.
21 SO, WE HAVE SOME OTHER PEOPLE, NAMELY MR. CHUCK WHITE FROM
22 WASTE MANAGEMENT, THAT WILL SPEAK ON BEHALF OF OUR OPERATOR.

23 CHAIRMAN PENNINGTON: YOU KNOW, IT WOULD SEEM TO
24 ME THAT IF WE'RE GOING TO TAKE THIS UP AT ANOTHER BOARD

1 MEETING, THIS WHOLE CONFORMANCY THING, MAYBE WE OUGHT TO
2 HOLD THE DISCUSSION ON THAT UNTIL WE GET IT AGENDIZED,
3 INSTEAD OF HOLDING UP THIS PERMIT WHILE WE TALK ABOUT THAT.

4 IF THAT --

5 MR. DEWEESE: YEAH. OBVIOUSLY, WE'RE JUST
6 CONCERNED ABOUT THE FATE OF OUR PERMIT.

7 CHAIRMAN PENNINGTON: SURE.

8 MR. DEWEESE: I THINK OUR PERMIT FOR THE NEAL ROAD
9 LANDFILL IS THE OLDEST EXISTING PERMIT IN THE STATE RIGHT
10 NOW, AND WE WOULD VERY MUCH LOVE TO SEE THAT REVISED TO
11 REFLECT THE CURRENT OPERATIONS. THANK YOU.

12 CHAIRMAN PENNINGTON: AGAIN, I'VE GOT CHUCK WHITE,
13 AND I'VE GOT MIKE MOHAJER.

14 MR. WHITE: THANK YOU, MR. CHAIRMAN. AS JIM
15 INDICATED, FROM BUTTE COUNTY, THAT HIS CONCERN -- WASTE
16 MANAGEMENT IS THE OPERATOR OF THE NEAL ROAD LANDFILL IN
17 BUTTE COUNTY. WE ARE NOT SPEAKING ON BEHALF OR AGAINST THE
18 PACHECO ROAD LANDFILL, BUT THERE IS A QUESTION WITH RESPECT
19 TO THE INTERPRETATION OF 44009.

20 WE BELIEVE 44009 DOES REFER SPECIFICALLY TO
21 50001, 50001 USED THE TERM IDENTIFYING THE FACILITY PROVIDED
22 THE FACILITY OR THE EXPANSION IS IDENTIFIED, WHICH WE
23 BELIEVE IT IS IN BOTH THE PACHECO ROAD CASE, OR THE NEAL
24 ROAD CASE. THAT GIVES YOU SUFFICIENT GROUNDS TO MAKE A

1 FINDING OF CONFORMANCE AS REQUIRED UNDER 44009. WE WOULD
2 ENCOURAGE YOU TO DO SO. THANK YOU.

3 CHAIRMAN PENNINGTON: THANK YOU. VERY GOOD.

4 MIKE MOHAJER, I SEE YOU WANT TO TALK POLICY.

5 MR. MOHAJER: THANK YOU, MR. CHAIR, MEMBERS OF THE
6 BOARD.

7 THE ISSUE OF THIS CONFORMANCE FOR THE SITING
8 ELEMENT, AS YOU KNOW, IS A CRITICAL ISSUE FOR LOS ANGELES
9 COUNTY. WE HAVE DISCUSSED IT APRIL OF '98, OVER HERE, AGAIN
10 JUNE OF '98, AND JUNE 24TH, '98, WHEN THE SITING ELEMENT WAS
11 APPROVED. AND WE ARE STILL WAITING FOR THE ISSUE TO GET
12 RESOLVED.

13 JUST SIMPLY SAYING AMENDING THE SITING
14 ELEMENT, IT IS NOT A SIMPLE ISSUE WHEN ANY AMENDMENT TO THE
15 DOCUMENT WOULD REQUIRE THE APPROVAL OF THE MAJORITY OF THE
16 CITIES.

17 AND THIS IS REALLY SOMETHING THAT NEEDS TO BE
18 PURSUED PROBABLY ON A FASTER SCALE THAN IT HAS BEEN. AND
19 ANY HELP THAT WE CAN PROVIDE WE'LL BE MORE THAN HAPPY TO.
20 THANK YOU.

21 CHAIRMAN PENNINGTON: WE APPRECIATE THAT.

22 SENATOR ROBERTI?

23 MEMBER ROBERTI: YES. NOT ON THIS GENTLEMAN, BUT
24 THE ONE BEFORE, I JUST WANT TO MAKE A SMALL COMMENT. IT WAS

1 MR. WHITE. HE MADE AN INTERESTING COMMENT, AND THAT WAS
2 THAT HIS INTERPRETATION OF THE STATUTE WAS THAT WE -- HE
3 FELT THAT WE COULD GRANT THE WAIVER BASED ON THAT
4 INTERPRETATION OF THE STATUTE. OR, GRANT THE PERMIT, I
5 GUESS, EXCUSE ME.

6 AND I JUST TO INTERJECT THAT COULD AND SHOULD
7 ARE VERY, VERY DIFFERENT, AND THE TENOR OF HIS PRESENTATION
8 WAS COULD MEANT SHOULD. AND I WANT HIM TO KNOW THAT'S WHAT
9 THIS BOARD'S ALL ABOUT. THE FACT THAT A STATUTE DOES
10 AUTHORIZE SOMETHING, OR COULD AUTHORIZE SOMETHING DOESN'T
11 MEAN THAT WE MUST AUTHORIZE IT.

12 AND I KNOW THE BOARD FEELS THAT WAY, BUT I
13 JUST HAD THE FEELING FROM THE SPEAKER, WITH ALL DEFERENCE,
14 BECAUSE HE'S REPRESENTING A PARTY AND THAT'S HIS JOB, THAT I
15 DON'T SEE IT QUITE THAT WAY.

16 CHAIRMAN PENNINGTON: VERY GOOD. OKAY.

17 MEMBER JONES: MR. CHAIRMAN?

18 CHAIRMAN PENNINGTON: YES, MR. JONES.

19 MEMBER JONES: I HAVE A QUESTION FOR ELLIOT. I
20 KNOW WE'RE GOING TO GET INTO THIS AS A POLICY DISCUSSION AT
21 SOME POINT, BUT IF THAT SITING ELEMENT DESCRIPTION, WHICH
22 HAS TO BE WHAT THE TONNAGE IS PERMITTED FOR TODAY, WHEN THAT
23 SITING ELEMENT IS DONE, IF THEY PUT UNDER EXPANSION,
24 POSSIBLE EXPANSION TO THE FOOTPRINT, OR POSSIBLE EXPANSION

1 IN TONNAGES, WOULD THERE BE AN ISSUE? DOES IT THEN CONFORM
2 WITH 50001?

3 MR. BLOCK: WELL, THE PARTICULAR HYPOTHETICAL
4 YOU'VE GIVEN I THINK DOESN'T CHANGE THE EQUATION FOR -- FROM
5 A STAFF POINT OF VIEW. I MEAN, THAT'S A QUESTION, IS THAT
6 SUFFICIENT? IS IT ENOUGH TO SIMPLY SAY IN THE SITING
7 ELEMENT THERE ARE PLANS TO EXPAND, BUT NOT PROVIDE ANY
8 DETAILS ON THAT? OR, DOES THERE HAVE TO BE SOME NUMBER
9 ASSOCIATED WITH THE EXPANSION?

10 AND, AGAIN, IT GOES BACK TO WHAT THIS BOARD
11 WILL VIEW THE SITING ELEMENT REQUIREMENT TO BE. THAT'S AN
12 ISSUE I THINK THAT I'LL MAKE SURE WE INCLUDE IN WHAT WE
13 BRING BACK, EXACTLY HOW DETAILED IT HAS TO BE.

14 I CAN TELL YOU, AROUND THE STATE, IT VARIES
15 WIDELY WHAT THE DOCUMENTS LOOK LIKE. SOME JURISDICTIONS
16 LITERALLY JUST PUT IN THEIR EXISTING FACILITIES AND DID NOT
17 DESCRIBE EXPANSIONS, AND FOR A VARIETY OF REASONS. SOME OF
18 WHICH MAY HAVE BEEN THEY JUST FIGURED THEY'D TAKE CARE OF
19 THAT IN THE FUTURE, AND FOR SOME OF THEM THEY JUST DIDN'T
20 HAVE ANY PLANS. SOME OF THEM HAVE INCLUDED VERY DETAILED
21 DESCRIPTIONS OF EXPANSIONS WITH NUMBERS, AND WITH POSSIBLE
22 SCENARIOS AND THE LIKE.

23 AND AT THIS POINT IN TIME, THAT'S A DECISION
24 UNDER THE STATUTES AND THE REGS THAT, YOU KNOW, THIS BOARD

1 HAS LEFT TO THE JURISDICTIONS TO DECIDE WHO DETAILED THEY
2 WANTED TO MAKE THAT. SO THAT'S ONE OF THE ISSUES I THINK
3 THAT'S ON THE TABLE, AS TO WHAT THAT DESCRIPTION OF
4 EXPANSIONS NEEDS TO LOOK LIKE.

5 MEMBER JONES: OKAY. BECAUSE I STRUGGLED WITH
6 THIS THING QUITE A BIT, BECAUSE I ALWAYS WORRY ABOUT THE GUY
7 THAT'S GOT A 50-TON-A-DAY SITE AND TURNS IT INTO A 10,000-
8 TON-A-DAY SITE.

9 BUT THE MORE I THOUGHT ABOUT IT, THE MORE I
10 THOUGHT THAT THERE IS A ROLE FOR LOCAL GOVERNMENT. AND
11 LOCAL GOVERNMENT'S ROLE IS TO ENSURE CEQA AND THE
12 ENVIRONMENTAL PROTECTION WITHIN ITS JURISDICTIONS.

13 AND THE FACT THAT TO GET ANY PERMIT THROUGH,
14 TO GET HERE, HAS GOT TO GO THROUGH A LOCAL PROCESS THAT I --
15 YOU KNOW, THAT DEALS WITH THOSE ISSUES, PUTS THEM OUT FOR
16 COMMENT, AND THEN MAKES A DETERMINATION -- AND I KNOW THAT
17 MOST OF THOSE DETERMINATIONS ARE MADE AT EITHER THE BOARD OF
18 SUPERVISORS OR THE CITY COUNCILS. AND I'VE SAT IN AN AWFUL
19 LOT OF THEM, AND IF THERE WERE PEOPLE THAT WERE -- HAD AN
20 ISSUE, THEY WERE THERE.

21 AND I'M WONDERING -- WHERE I'M HAVING A
22 PROBLEM IS THAT -- IS, YOU KNOW, THE ROLE OF THIS BOARD IS
23 TO MAKE SURE THAT THOSE FACILITIES HAVE BEEN IDENTIFIED,
24 THAT PEOPLE UNDERSTAND WHAT IS GOING ON. IT WAS ALMOST AN

1 ACCOUNTABILITY ISSUE, IT SEEMED LIKE AT THE TIME, TO MAKE
2 SURE THAT PEOPLE PLANNED AND UNDERSTOOD WHAT WAS GOING TO
3 HAPPEN, AND THEY WERE LOCATED. AND IF THEY KNEW A TRANSFER
4 STATION'S GOING TO GO INTO A FACILITY THE, BY ALL MEANS,
5 THAT'S GOT TO GO UP THROUGH THE PROCESS, IT'S GOT TO BE AN
6 AMENDED SITING ELEMENT, THOSE ISSUES.

7 BUT WE DO PERMIT REVISIONS EVERY DAY. SO, IF
8 WE WERE TO EXPAND A PERMIT FROM 250 TONS A DAY TO 400 TONS A
9 DAY, IS THAT AN EXPANSION? AND, DOES THAT EXPANSION TRIGGER
10 THEM NOT GETTING A PERMIT REVISION, BUT HAVING TO GO BACK
11 AND DO A SITING ELEMENT REVISION? AND, THAT BOTHERS ME FROM
12 A POINT OF BUREAUCRACY. YOU KNOW, I MEAN, HOW MANY PIECES
13 OF PAPER DO WE HAVE TO HAVE WITH IT WRITTEN DOWN TO MAKE
14 SURE THAT THE PUBLIC'S HEALTH AND SAFETY ARE PROTECTED?

15 AND, SO I'M INTERESTED IN THE DEBATE AND IN
16 THE POLICY, BUT I JUST -- I ABSOLUTELY THINK THAT CEQA'S THE
17 KEY TO THIS THING. AND THAT IT'S IDENTIFIED. I MEAN, IF IT
18 WAS A NEW ONE, BY ALL MEANS, IT HAS TO GO THROUGH THE
19 PROCESS. BUT A REVISION OF A THOUSAND TONS, OR A REVISION
20 OF A HUNDRED TONS COULD TRIGGER THE EXACT SAME CONSEQUENCES,
21 WHERE YOU'D HAVE TO GO BACK AND DO SITING ELEMENTS AND DO
22 ALL THOSE THINGS, AND I DON'T -- I'M TRYING TO ASSESS THE
23 BENEFIT, SO.

24 CHAIRMAN PENNINGTON: YVONNE HUNTER.

1 MS. HUNTER: GOOD MORNING, YVONNE HUNTER WITH THE
2 LEAGUE OF CALIFORNIA CITIES. I WAS JUST HERE TO MONITOR AND
3 LISTEN TO THE POLICY DISCUSSION, AND I'M NOT HERE IN ANY WAY
4 TO COMMENT ON THE PERMIT.

5 BUT, MR. JONES RAISED SOME ISSUES THAT I'VE
6 THOUGHT ABOUT. AND AS THE BOARD PROVIDES DIRECTION TO STAFF
7 ON THE SCOPE OF THE POLICY ISSUES TO CONSIDER, I WOULD
8 ENCOURAGE THEM TO COVER EXACTLY WHAT MR. JONES HAS RAISED,
9 AND SOMETHING THAT I'VE BEEN THINKING ABOUT.

10 AND THAT IS, I HAVE NO IDEA, FRANKLY, WHEN
11 IT'S APPROPRIATE TO REVISE A SITING ELEMENT AND WHEN IT'S
12 NOT. AND I THINK WE NEED TO LOOK AT WHY ONE WOULD REVISE A
13 SITING ELEMENT UNDER DIFFERENT CIRCUMSTANCES.

14 BUT AT THE SAME TIME, TYING INTO SENATOR
15 ROBERTI'S COMMENT ABOUT PUBLIC COMMENT AND PUBLIC NOTICE, WE
16 NEED TO LOOK AT WHEN IN THE PROCESS CEQA KICKS IN, WHAT KIND
17 OF PUBLIC NOTICE IS INVOLVED THERE, AND WHEN IN THE PROCESS
18 THE APPROPRIATE LAND USE PERMITS, CONDITIONAL USE PERMITS
19 KICK IN, AND WHAT THE NOTICE IS THERE. AS WELL AS THE LEAS
20 PROCESS.

21 I MEAN, ALL OF THESE THINGS ARE GOING ON IN
22 PARALLEL, AND SOME OF THEM MAY BE ADEQUATE FOR THE NOTICE
23 PROVISION THAT IS ENVISIONED IN A SITING ELEMENT, SOME OF
24 THEM MAY NOT. BUT I THINK IF WE'RE GOING TO REVISIT THE

1 POLICY WE NEED TO LOOK AT ALL OF THOSE, AND THE LEAGUE WILL
2 BE HAPPY TO PARTICIPATE IN THOSE DISCUSSIONS.

3 CHAIRMAN PENNINGTON: ALL RIGHT. THANK YOU.

4 SENATOR ROBERTI?

5 MEMBER ROBERTI: YEAH, I'M GOING TO BORE YOU WITH
6 MY EXPERIENCE OF TWO DAYS AGO, IT HAD NOTHING TO DO WITH
7 WASTE MANAGEMENT. BUT I GOT A NOTICE FROM THE CITY OF LOS
8 ANGELES, WHERE I LIVE, THAT MY NEIGHBOR WAS GOING TO BUILD A
9 SIX-FOOT WALL UNDER MY NOSE. WELL, NOT WANTING TO FIGHT
10 THAT BATTLE OUT HERE -- FORTUNATELY I'M IN A POSITION WHERE
11 I CAN TAKE AN ADMIN DAY, GO HOME, TRAVEL TO THE PLANNING
12 COMMISSION WITH MY WIFE, AND LOOK LIKE A GRIEVED RESIDENT,
13 WITH WHOEVER ELSE IS GOING TO COME WITH US, THERE....

14 WHEN YOU HAVE SOMETHING LIKE THIS BEING SITED
15 NEXT DOOR TO YOU, WHETHER IT'S YOUR BUSINESS OR YOUR HOME,
16 NOTHING DRIVES YOU CRAZIER. AND IT DROVE ME CRAZY. WELL,
17 WHY SHOULD YOU BE CRAZY, YOU'RE A STATE SENATOR -- WELL, IT
18 DROVE ME CRAZY. YOU KNOW? I MEAN, I DON'T CARE WHO I WAS.

19 SO, I REALLY THINK WE SHOULD BE VERY, VERY
20 CAUTIOUS WHEN WE SHORTCUT NOTICE ON THINGS THAT HAVE AFFECT
21 ON PEOPLE'S PERSONAL PROPERTY. BECAUSE, THEY -- THE
22 NEIGHBOR, THE EDIFICE IN QUESTION -- AND I ASSURE YOU, IF I
23 WAS DRIVEN CRAZY BY A WALL -- AND WHICH THEY WERE TRYING TO
24 MAKE IT BEAUTIFUL -- CAN YOU IMAGINE, I WOULD HAVE GONE

1 THROUGH THE CEILING IF I THOUGHT IT WAS GOING TO BE A DUMP
2 SITE.

3 AND, SO I THINK WE HAVE TO BE VERY CAUTIOUS
4 OF WHEN WE WAIVE NOTICE. AND I THINK WOMAN WHO JUST SPOKE
5 MADE THE POINT, THESE DEADLINES ARE ALL TOGETHER DIFFERENT.

6 AND WE -- I DON'T THINK ANY OF US KNOW HOW THE DEADLINES
7 INTERRELATE AND COORDINATE WITH EACH OTHER.

8 SO, JUST REEMPHASIZING, BECAUSE SHE -- SHE
9 STIRRED ME TO ANOTHER SPEECH, THAT NOTICE IS TERRIBLY
10 IMPORTANT. AND TO ME IT'S ALMOST AS IMPORTANT AS THE
11 ENVIRONMENTAL CONSIDERATIONS THAT WE'RE DEALING WITH.
12 PEOPLE WANT TO FEEL THAT THEY HAD A CHANCE TO BE HEARD AT
13 EVERY STEP ALONG THE WAY.

14 CHAIRMAN PENNINGTON: VERY GOOD. HOW ABOUT --

15 MS. TOBIAS: MR. CHAIR, COULD I -- I'D LIKE TO ADD
16 -- I'D LIKE TO ADD, SEPARATE FROM WHAT MR. BLOCK WENT OVER,
17 IN TERMS OF THE CONFORMANCE FINDINGS AND THE LEGALITIES OF
18 THAT?

19 BUT, I DO FEEL IT'S IMPORTANT TO POINT OUT
20 THAT IT HAS BEEN BASICALLY -- WHEN POLICY ISSUES LIKE THIS
21 ARISE BEFORE THE BOARD, EVEN AT THE LAST MINUTE, AND THERE
22 HAVE BEEN SOME A LOT OF TIMES IN OUR -- I THINK OUR EFFORT
23 TO GET AGENDA ITEMS BEFORE THE BOARD IN AN EXPEDITIOUS
24 MANNER, A LOT OF TIMES THESE POLICY ITEMS DO BECOME MORE

1 APPARENT AT THE TIME THAT WE'RE BRINGING THE ITEM FORWARD.

2 AND I THINK HERE, WHERE IT INVOLVES TWO
3 AGENDA ITEMS, NOT JUST ONE, I THINK IT MAKES IT VERY CLEAR
4 THAT THERE IS -- AS I THINK YOU'VE ALL ACKNOWLEDGED -- A
5 POLICY ISSUE HERE. AND I THINK -- I JUST FEEL LIKE I'D BE -
6 - IT WOULD BE REMISS TO NOT POINT OUT THAT IT HAS BEEN A
7 PRACTICE OF THE BOARD TO SET THESE SPECIFIC AGENDA ITEMS
8 ASIDE, TO NOT MAKE SPECIFIC AGENDA ITEMS KIND OF CARRY THE
9 WEIGHT OF A POLICY DECISION, BUT TO SET THEM ASIDE AND TAKE
10 UP THE POLICY ITEM.

11 I AM UNCOMFORTABLE WITH THE IDEA THAT THERE
12 WILL BE, POTENTIALLY, FACILITIES OUT THERE THAT WILL BE
13 GOING THROUGH A DIFFERENT PROCESS. THESE THROUGH ONE (SIC)
14 AND POSSIBLY, DEPENDING ON WHAT THE BOARD COMES UP WITH, ON
15 HOW THEY WANT TO DEAL WITH THIS POLICY IN THE FUTURE. IT
16 MAY NOT BE ANY DIFFERENT, AND THEN IN THAT CASE ALL OF THE
17 FACILITIES WOULD HAVE BEEN TREATED THE SAME.

18 BUT, I'M UNCOMFORTABLE, I HAVE TO SAY, JUST
19 FROM MY OWN VIEWPOINT HERE, IN TERMS OF THE BOARD'S PRACTICE
20 ON THIS, AND ALSO HAVING FACILITIES THAT HAVE BEEN TREATED
21 DIFFERENTLY. SO, I FELT THAT WAS IMPORTANT TO HEAR FROM THE
22 LEGAL OFFICE.

23 CHAIRMAN PENNINGTON: THANK YOU.

24 MR. FRAZEE?

1 MEMBER FRAZEE: YES. I CERTAINLY SHARE SOME OF
2 THOSE FEELINGS. BUT, JUST AS A COUNTER TO THAT, I THINK
3 THAT, YOU KNOW, THE REAL BOTTOM-LINE PURPOSE OF CIWMP IS TO
4 ENSURE CAPACITY. AND I THINK THIS ONE CAN BE TREATED
5 DIFFERENTLY THAN PERHAPS OTHERS, IN THAT THE CAPACITY IS
6 ASSURED.

7 I UNDERSTAND THAT, WITH OR WITHOUT THIS
8 FACILITY, SANTA CLARA COUNTY STILL HAS 30 YEARS OF CAPACITY.

9 SO, I THINK THAT THIS IS ONE THAT CAN BE TAKEN OUTSIDE OF
10 THE BOX AND LET THE POLICY DECISION GO FOR ANOTHER DAY
11 BEFORE THAT -- HINGING ON THAT SINGLE POINT OF THE PURPOSE
12 OF THE COUNTYWIDE INTEGRATED PLAN IS TO ENSURE CAPACITY, AND
13 THAT IS NOT IN QUESTION HERE.

14 SO, I DON'T THINK THIS ONE REALLY DISTURBS --
15 AND, THIS LOOKS LIKE IT'S GOING TO BE A LENGTHY DISCUSSION
16 AND, AS I SUGGESTED EARLIER, MAY EVEN REQUIRE LEGISLATION,
17 WHICH WOULD TAKE THE BETTER PART OF A YEAR, AND I THINK IT'S
18 FAR MORE IMPORTANT TO GET SOME OF THESE PERMITS UPGRADED IN
19 THE INTERIM.

20 MS. TOBIAS: WELL, I ACKNOWLEDGE THAT IT IS A
21 LENGTHY PROCESS. AND, I GUESS, GIVEN WHAT YOU'VE JUST SAID
22 I'M GLAD I DID BRING IT UP --

23 MEMBER FRAZEE: YEAH.

24 MS. TOBIAS: -- BECAUSE I THINK YOU'RE MAKING A

1 DISTINCTION THERE THAT WILL PROVIDE SOME GUIDANCE FOR ANY
2 OTHER FACILITIES THAT ARE COMING IN, IN BETWEEN NOW AND WHEN
3 THE BOARD GETS A POLICY. SO, I THINK THAT'S THE IMPORTANT
4 THING, IS TO MAKE IT CLEAR, YOU KNOW, WHY THE BOARD FEELS
5 THAT THEY CAN GO AHEAD WITH THESE FACILITIES.

6 AND, BECAUSE I THINK THAT THE CASE WILL BE,
7 IS THAT THE REST WILL EXPECT TO BE TREATED THE SAME WAY, AND
8 I THINK YOU'RE DELINEATING, GIVEN THE INTENT OF THE CIWMP,
9 AT LEAST WHAT YOU SEE AS A REASON TO DO THAT, SO.

10 MEMBER FRAZEE: AND HAVING SAID THAT, I JUST HOPE
11 THAT NEAL ROAD FALLS IN THAT SAME CATEGORY.

12 MS. TOBIAS: ACTUALLY, I JUST ASKED MR. BLOCK THAT
13 AND HE SAYS IT DOES, SO THAT WAS MY IMMEDIATE CONCERN.

14 MEMBER FRAZEE: SO, MR. CHAIRMAN, I'M GOING TO
15 MOVE ADOPTION OF RESOLUTION 1999-27, AND THIS IS THE
16 CONSIDERATION OF A REVISED PERMIT FOR THE PACHECO PASS
17 SANITARY LANDFILL.

18 CHAIRMAN PENNINGTON: VERY GOOD.

19 MEMBER ROBERTI: MR. CHAIRMAN?

20 CHAIRMAN PENNINGTON: YES.

21 MEMBER ROBERTI: IF I COULD OFFER AN AMENDMENT,
22 MAYBE THE AUTHOR OF THE MOTION WILL TAKE IT. AND THAT IS
23 THAT THE LANGUAGE 'CONFORMANCE WITH THE COUNTY INTEGRATED
24 WASTE MANAGEMENT PLAN' BE STRICKEN BECAUSE -- AND THE

1 WHEREAS CLAUSE, THE LAST WHEREAS CLAUSE - BECAUSE I AM
2 VOTING FOR THIS, OR INTEND TO VOTE FOR THE RESOLUTION, BUT
3 NOT BECAUSE IT'S IN CONFORMANCE WITH THE COUNTY INTEGRATED
4 WASTE MANAGEMENT PLAN, BECAUSE I THINK THAT'S THE BIG
5 QUESTION.

6 MEMBER FRAZEE: WELL, AS THE MAKER OF THE MOTION,
7 I CANNOT ACCEPT THAT. I THINK THAT'S THE WHOLE PURPOSE.
8 THAT'S A FINDING THAT MUST BE MADE BEFORE WE CAN MOVE AHEAD,
9 AND THAT JUST TAKES THIS WHOLE DISCUSSION OUT OF THE REALM
10 OF CONSIDERATION.

11 MS. TOBIAS: MR. ROBERTI, WHICH WHEREAS WAS THAT,
12 PLEASE -- SENATOR ROBERTI?

13 MEMBER ROBERTI: IT IS -- LET ME SEE.

14 I THINK IT'S THE LAST ONE.

15 MS. TOBIAS: THE LAST ONE? THANK YOU.

16 CHAIRMAN PENNINGTON: MR. FRAZEE HAS MOVED. CAN
17 WE HAVE A SECOND FOR MR. FRAZEE'S -- IF NOT...? MR. JONES?

18 MEMBER JONES: I'LL SECOND IT.

19 I UNDERSTAND WHAT THE SENATOR'S SAYING ON THE
20 CONFORMANCE. I THINK THAT --

21 MEMBER ROBERTI: I DON'T SEE WHY WE NEED TO SAY
22 THAT.

23 MEMBER JONES: IT HAS TO CONFORM TO YOUR PERMIT.

24 MEMBER ROBERTI: STRIKING IT DOESN'T MEAN IT'S

1 CONFORMING OR NOT CONFORMING.

2 MS. TOBIAS: WOULD IT HELP TO PUT MR. FRAZEE'S
3 POINT IN THERE, WHICH WAS THAT IT'S CONFORMANCE WITH THE
4 INTENT? OR, CONFORMANCE WITH THE PLAN AND THE INTENT OF THE
5 PLAN, AS TO CAPACITY, SO THAT IT CLARIFIES WHAT THE BOARD'S
6 MAKING A DISTINCTION ON?

7 MEMBER ROBERTI: OKAY. I'LL BE EASY-GOING HERE.
8 IF YOU PUT THE WORD "INTENT" OF THE -- IF YOU QUALIFY THE
9 WHOLE THING WITH THE WORD "INTENT" I PROBABLY COULD ACCEPT
10 IT. CONFORMANCE WITH THE INTENT OF THE COUNTY INTEGRATED
11 WASTE MANAGEMENT PLAN.

12 MS. TOBIAS: OR, I WAS -- I DON'T KNOW IF THIS IS
13 NOT ENOUGH, BUT I WAS SAYING, IN CONFORMANCE WITH THE PLAN
14 AND THE INTENT OF THE PLAN, SO THAT IT KIND OF COVERS BOTH
15 BASES. SO THAT WOULD BE ONE OTHER OPTION.

16 MS. DELMATIER: MR. CHAIRMAN?

17 CHAIRMAN PENNINGTON: YES?

18 MS. DELMATIER: I CERTAINLY APPRECIATE MR.
19 ROBERTI'S CONCERNS REGARDING THE PRECEDENT, AND THE POLICY
20 QUESTION THAT HAS BEEN RAISED TODAY.

21 AS MR. FRAZEE POINTED OUT, IT'S OUR
22 UNDERSTANDING, IN READING THE STATUTES, THAT IN FACT THE
23 STATUTES DO REQUIRE THAT THE BOARD MAKE A FINDING OF
24 CONFORMANCE. AND IF WE FAIL TO MAKE THAT FINDING, IN

1 ADOPTION OF THE PERMIT, THEN IT SUBJECTS THIS PERMIT TO
2 LEGAL CHALLENGE. AND, SO WE DO HAVE A CONCERN ABOUT
3 ADOPTING AND CONCURRING THE PERMIT WITHOUT THAT STATUTORILY-
4 REQUIRED FINDING.

5 MEMBER ROBERTI: COULD YOU GIVE ME THE SECTION
6 WHERE IT SAYS THAT?

7 MR. WHITE: I BELIEVE THAT'S SECTION 44009 OF THE
8 PUBLIC RESOURCES CODE.

9 MEMBER ROBERTI: YEAH. RIGHT OFF THE TOP OF MY
10 HEAD, YEAH, I REMEMBER THAT --

11 MR. WHITE: YEAH, I HAVE IT HERE, SECTION 44009
12 STATES, IN PART THAT:

13 "IF THE BOARD DETERMINES THAT THE PERMIT IS
14 NOT CONSISTENT WITH SECTIONS 50000 OR 50001, THEN
15 THE BOARD SHALL OBJECT TO THE PROVISIONS OF THE
16 PERMIT AND SHALL SUBMIT THOSE OBJECTIONS TO THE
17 LOCAL ENFORCEMENT AGENCY FOR ITS CONSIDERATION."

18 MEMBER ROBERTI: BUT THAT DOESN'T STRIKE ME THAT
19 WE HAVE TO, THEN, PUT THIS LANGUAGE IN. UNLESS WE'RE TRYING
20 TO DOT EVERY "I" AND CROSS EVERY "T" FOR PETITIONER. EVEN
21 AT THE RISK OF ESTABLISHING A PRECEDENT THAT WILL GO -- BE
22 FAR MORE REACHING THAN WHAT I WANT TO DO.

23 I'M WILLING TO ADJUST FOR YOU, BUT I DON'T
24 SEE WHY WE SHOULD HAVE TO CROSS EVERY, YOU KNOW, "T" AND

1 POSSIBLY ESTABLISH A PRECEDENT.

2 MS. DELMATIER: MAY I SUGGEST AN ALTERNATIVE? AND
3 ASK FOR LEGAL COUNSEL, FOR SOME ASSISTANCE IN THIS REGARD?

4 IS IT POSSIBLE TO ADOPT THE PERMIT, AS WE
5 HAVE ALWAYS DONE, AND HAS BEEN A CHECK-OFF ITEM ON ALL
6 PERMITS? AND AGAIN, THIS WOULD -- IF WE WERE NOT TO PROVIDE
7 FOR THIS FINDING, THAT IN FACT WOULD ESTABLISH A PRECEDENT
8 AND A DEPARTURE FROM PREVIOUS PRACTICE. AND I RECOGNIZE
9 THAT -- WHAT THE CONCERN IS.

10 BUT, AS AN ALTERNATIVE -- AND ASKING FOR
11 ASSISTANCE FROM LEGAL COUNSEL IN THIS REGARD -- COULD WE
12 PROVIDE A LETTER OF EXPLANATION ATTACHED TO THE PERMIT, THAT
13 THE BOARD IS GOING TO LOOK AT THIS LARGER POLICY QUESTION,
14 AND THAT THAT LARGER POLICY QUESTION, IN ADOPTING THIS
15 PERMIT TODAY, WILL NOT PREJUDICE THAT DECISION ON THE LARGER
16 POLICY QUESTION?

17 MS. TOBIAS: WELL, I DON'T HAVE A PROBLEM WITH
18 THAT, BECAUSE I THINK -- MY UNDERSTANDING IS THAT IT REALLY
19 IS THE INTENT OF WHERE THE BOARD'S GOING TODAY ANYWAY. SO I
20 THINK THAT COULD EITHER BE IN THE MOTION, IT COULD EITHER BE
21 IN A SECOND MOTION AFTER THE APPROVAL OF IT.

22 I DO THINK THAT THE BOARD NEEDS TO TELL STAFF
23 THAT YOU DO WANT STAFF TO GO AHEAD AND WORK ON THIS POLICY
24 ISSUE. ALTHOUGH, I THINK THE TRANSCRIPT WILL ALSO REFLECT

1 THIS DISCUSSION.

2 MS. DELMATIER: I UNDERSTAND THE TRANSCRIPT WILL
3 REFLECT THE DISCUSSION. BUT IN TRYING TO PROVIDE
4 CLARIFICATION FOR MR. ROBERTI'S CONCERNS, I THINK THAT THAT
5 WOULD PROVIDE ADDITIONAL CLARIFICATION, AS FAR AS THIS
6 DECISION TODAY WOULD NOT PREJUDICE THE POLICY QUESTION,
7 EITHER FOR THIS PERMIT OR ANY OTHER PERMIT.

8 MEMBER ROBERTI: RIGHT. AND THAT MAY BE SOMETHING
9 WE CAN DO IN A SECOND MOTION. I THINK WE COULD DO IT IN
10 THIS MOTION, TOO, IF WE WANT TO. BUT I WOULD SAY THAT'S
11 PROBABLY SOMETHING WE COULD DO IN A SECOND MOTION. THAT
12 STAFF BE DIRECTED TO MEET WITH THE VARIOUS STAKEHOLDERS, AND
13 COME BACK WITH A RECOMMENDATION AT A TIME WHICH STAFF FEELS
14 IS EXPEDITIOUS, AND YET SUFFICIENT. AND SO, YEAH, I WOULD -
15 - I LIKE THE SUGGESTION, AND I WOULD SAY THAT THAT COULD BE
16 A FOLLOW-UP MOTION.

17 ABSENT SOME STATEMENT THAT THIS CONFORMANCE
18 WITH THE COUNTY INTEGRATED WASTE MANAGEMENT PLAN IS -- HAS
19 TO BE STATED, I DON'T SEE WHY IT'S NECESSARY. I HAVEN'T
20 HEARD WHY IT HAS TO BE STATED, EXCEPT FOR THE COMFORT ON THE
21 PART OF THE PETITIONER.

22 MS. TOBIAS: WELL, IT IS ONE OF THE FINDINGS THAT
23 WE TYPICALLY MAKE, AND I THINK IF YOU DON'T HAVE IT IN THERE
24 THAT PROBABLY INTRODUCES SOME ELEMENT OF QUESTION.

1 I HAVE ONE MORE SUGGESTION, AND THAT IS TO
2 SAY CONFORMANCE -- THAT THE BOARD FINDS THAT ALL STATE AND
3 LOCAL REQUIREMENTS HAVE BEEN MADE, INCLUDING CONSISTENCY
4 WITH BOARD STANDARDS, CONFORMANCE WITH THE INTENT TO PROVIDE
5 15 YEARS OF CAPACITY IN THE COUNTY INTEGRATED WASTE
6 MANAGEMENT PLAN.

7 MEMBER ROBERTI: I'LL GO ALONG WITH THAT.

8 MEMBER FRAZEE: YEAH.

9 I'LL AMEND MY MOTION AND THE RESOLUTION TO REFLECT
10 THAT --

11 CHAIRMAN PENNINGTON: OKAY.

12 MS. DELMATIER: MR. CHAIRMAN?

13 CHAIRMAN PENNINGTON: YES?

14 MS. DELMATIER: IF I MIGHT? AS REPRESENTING THE
15 APPLICANT IN THIS REGARD, OBVIOUSLY WE WOULD -- AND I
16 THOUGHT WE HAD AGREEMENT HERE IN TRYING TO ADDRESS MR.
17 ROBERTI'S CONCERNS. IT CERTAINLY WOULD BE OUR PREFERENCE TO
18 PROVIDE FOR THE SECOND MOTION, IN PROVIDING THE
19 CLARIFICATION ON THE POLICY QUESTION, AS OPPOSED TO HAVING
20 THAT EXPRESS FLEXIBILITY LANGUAGE THAT COULD BE SUBJECT TO
21 INTERPRETATION IN THE PERMIT ADOPTION RESOLUTION ITSELF.

22 SO, IF WE COULD HAVE THE SECOND MOTION, FOR
23 PURPOSES OF CLARIFICATION, THAT THE POLICY QUESTION IS NOT
24 PREJUDICED BY ADOPTION OF THIS PERMIT, THAT WOULD BE OF

1 GREAT ASSISTANCE. AND, I THOUGHT THAT THAT WAS WHAT WE WERE
2 DISCUSSING.

3 MEMBER ROBERTI: WELL, I DON'T WANT TO PREJUDICE -
4 - THE SECOND -- I DON'T WANT TO PREJUDICE THE POLICY
5 QUESTION EITHER, TILTING TOWARD THE WAY I'M LEANING, OR
6 TILTING THE WAY THAT PROBABLY HAS BEEN SORT OF BOARD POLICY.
7 SO, YEAH, THAT'S MY POSITION. BUT I DON'T WANT TO TILT IT
8 ONE WAY OR THE OTHER.

9 MS. DELMATIER: EXACTLY. AND NEITHER DO WE,
10 BECAUSE THAT IS A FUNDAMENTAL POLICY QUESTION THAT'S GOING
11 TO BE DEBATED AT LENGTH, AND IT WILL BE RATHER
12 CONTROVERSIAL. AND WE ALL KNOW THAT, IN FAIRNESS WE ALL
13 KNOW THAT. SO, WE DON'T WANT TO TILT ONE WAY OR THE OTHER.
14 WE WANT THIS ADOPTION -- THIS PERMIT TODAY TO BE ABSOLUTELY
15 NEUTRAL IN THAT REGARD.

16 SO THAT'S WHY, IF WE PUT IT IN THE PERMIT
17 ADOPTION RESOLUTION, I DO IN FACT BELIEVE THAT WE WILL BE
18 TILTING. IF WE PUT IT IN A SECOND MOTION THAT CLARIFIES THE
19 BOARD'S POLICY --

20 MEMBER ROBERTI: I UNDERSTAND WHAT YOU'RE SAYING.
21 BUT THAT MEANS YOU STILL WANT CONFORMANCE WITH THE COUNTY
22 INTEGRATED WASTE MANAGEMENT PLAN IN THERE --

23 MS. DELMATIER: THAT IS SUBJECT TO INTERPRETATION
24 DOWN THE ROAD, ONCE THE BOARD ADOPTS THAT POLICY.

1 MEMBER ROBERTI: I KIND OF LEAN TOWARDS THE --
2 WELL, THE LANGUAGE WHICH MS. TOBIAS IN A SPIRIT OF
3 COMPROMISE OFFERED, AND I DON'T THINK THAT AFFECTS YOU AT
4 ALL, ONE WAY OR THE OTHER.

5 MS. DELMATIER: ONE OF THE POLICY QUESTIONS THAT
6 WE WILL BE ADDRESSING IN THAT LARGER DISCUSSION IS WHO, IN
7 FACT, IS RESPONSIBLE FOR DEMONSTRATING THE MINIMUM 15-YEAR
8 DISPOSAL CAPACITY. AND AS WE HAVE DEBATED IN THE
9 LEGISLATURE OVER THIS VERY BILL, AB 3001, CORTEZE (PHON),
10 AND DEBATED IN THE DISCUSSIONS, IN FACT, IN AB 939, THAT
11 RESPONSIBILITY SOLELY LIES WITH CITIES AND COUNTIES, THE
12 LOCAL AGENCIES. AND BY PUTTING THIS INTENT LANGUAGE,
13 DEMONSTRATING A 15-YEAR DISPOSAL CAPACITY, IN A PRIVATE
14 PERMIT APPLICATION, AGAIN, WE WILL BE IN FACT TILTING THAT
15 DISCUSSION.

16 MEMBER ROBERTI: BUT ISN'T THAT WHAT WE'RE DOING
17 ANYWAY, WITH THIS LANGUAGE WHICH -- OR, YOU'RE APPARENTLY
18 RECOMMENDING? I MEAN, IT'S SUBSUMED IN THIS LANGUAGE
19 ANYWAY.

20 MS. DELMATIER: BUT IT WOULD NOT BE AN OFFICIAL
21 ADOPTION IN THE PERMIT APPLICATION. IT WOULD BE AN
22 EXPLANATORY LANGUAGE, SEPARATE AND APART FROM THE PERMIT
23 RESOLUTION.

24 MEMBER ROBERTI: WELL, I DON'T UNDERSTAND WHY YOU

1 WOULD BE CONCERNED WITH THE 15-YEAR LANGUAGE. IN FACT,
2 THAT'S --

3 MS. DELMATIER: BECAUSE WE'RE LINKING THE PERMIT
4 APPLICATION TO THE CITY AND COUNTY RESPONSIBILITY --

5 (THE PARTIES SIMULTANEOUSLY SPEAK.)

6 MEMBER ROBERTI: -- WE'RE LINKING IT WITH THE
7 CONFORMANCE -- WITH YOUR LANGUAGE. SO, I MEAN, I DON'T
8 UNDERSTAND THE PROBLEM.

9 MS. TOBIAS: I THINK THAT'S A GOOD IDEA.

10 MEMBER ROBERTI: I MEAN, YOU JUST WANT BROADER
11 LANGUAGE, AND I UNDERSTAND THAT. BUT ON MY VOTE, I'M NOT
12 PREPARED TO GIVE IT. AND I WANT TO BE FAIR, SIMPLY ON A
13 NOTICE TO YOUR ENTITY, THAT YOU SHOULDN'T BE THE FIRST ONE
14 UP AND BE HIT WITH A NEW POLICY CONSIDERATION. AND, THERE
15 ARE NO PUBLIC HAZARDS INVOLVED, AND I TAKE THAT TO BE THE
16 CASE.

17 BUT, I DON'T WANT TO GO ANY FURTHER THAN
18 THAT, BECAUSE THIS ISSUE IS MUCH MORE EXPANSIVE THAN NORCAL
19 OR PACHECO PASS.

20 MS. DELMATIER: AND, MR. ROBERTI, YOU'RE RAISING
21 VERY GOOD ISSUES HERE. AND BEING AN EXPERIENCED LEGISLATIVE
22 ADVOCATE ON THE LEGISLATIVE FRONT, I CONCUR WITH YOUR
23 ASSESSMENT.

24 CHAIRMAN PENNINGTON: WE HAVE A MOTION ON THE

1 FLOOR TO ADOPT RESOLUTION 99-27, AS AMENDED BY MS. TOBIAS'
2 LANGUAGE, SECONDED BY MR. JONES.

3 IF THERE'S NO FURTHER DISCUSSION, COULD WE
4 CALL THE ROLL, PLEASE?

5 THE SECRETARY: BOARD MEMBER EATON?

6 MEMBER EATON: AYE.

7 THE SECRETARY: FRAZEE?

8 MEMBER FRAZEE: AYE.

9 THE SECRETARY: JONES?

10 MEMBER JONES: AYE.

11 THE SECRETARY: ROBERTI?

12 MEMBER ROBERTI: AYE.

13 THE SECRETARY: CHAIRMAN PENNINGTON?

14 CHAIRMAN PENNINGTON: AYE.

15 THE MOTION CARRIES.

16 WE'RE GOING TO TAKE ABOUT FIVE MINUTES HERE.

17 (OFF THE RECORD: BRIEF RECESS.)

18 //

19 ITEM NO. 4: CONSIDERATION OF A REVISED SOLID WASTE
20 FACILITY PERMIT FOR NEAL ROAD LANDFILL, BUTTE COUNTY

21 CHAIRMAN PENNINGTON: OKAY. NEXT WE'LL GO TO ITEM
22 NUMBER FOUR, CONSIDERATION OF A REVISED SOLID WASTE FACILITY
23 PERMIT FOR NEAL ROAD LANDFILL.

24 MS. NAUMAN: THIS ITEM BEFORE YOU IS THE

1 CONSIDERATION OF A REVISED SOLID WASTE PERMIT FOR THE NEAL
2 ROAD LANDFILL IN BUTTE COUNTY. THE PROPOSED PERMIT IS TO
3 ALLOW FOR THE DISPOSAL OF 170 TONS OF WASTE PER DAY TO
4 ACCOMMODATE FOR THE INCREASED ACREAGE OF 165 ACRES WITH 101
5 ACRES FOR DISPOSAL AND A SUBSEQUENT EXTENSION OF A CLOSURE
6 DATE TO 2018. THE PROPOSED PERMIT ALSO SETS A MAXIMUM
7 ELEVATION OF 495 FEET.

8 THE CEQA DOCUMENTATION HAS BEEN FOUND TO MEET
9 ALL REQUIREMENTS.

10 IN YOUR ITEM, AS IT'S PRINTED, THERE IS NO
11 RECOMMENDATION DUE TO AN OUTSTANDING ISSUE OF OPERATING
12 LIABILITY. THIS HAS SINCE BEEN RESOLVED AND THE OPERATOR
13 HAS PROVIDED THE NECESSARY INFORMATION, AND IT MEETS THE
14 REQUIREMENTS.

15 THE ONLY REMAINING ISSUE IS THE CONFORMANCE
16 FINDING, AS WITH PACHECO PASS.

17 STAFF IS WILLING TO FOLLOW THE SAME
18 DIRECTIONS AS GIVEN IN THE PREVIOUS ITEM. ELLIOT BLOCK IS
19 AVAILABLE TO DISCUSS THE SPECIFICS IF YOU NEED HIM TO.

20 CHAIRMAN PENNINGTON: OKAY. IS THAT IT?

21 MS. NAUMAN: THIS CONCLUDES MY PRESENTATION. AND
22 CHARLIE BIRD, WITH THE LEA IS ALSO HERE TO ANSWER QUESTIONS.

23 CHAIRMAN PENNINGTON: OKAY. ANY QUESTIONS OF --
24 YES, MR. FRAZEE?

1 MEMBER FRAZEE: PERHAPS YOU'D IDENTIFY YOURSELF
2 FOR THE RECORD?

3 MS. KARL: OH, I'M SORRY, CHRISTINE KARL FROM THE
4 PERMITTING AND INSPECTION BRANCH.

5 MEMBER FRAZEE: THE QUESTION I HAVE REALLY COMES
6 OUT OF THE PREVIOUS ITEM, AND I SEE THIS ONE AS PERHAPS
7 BEING A LITTLE DIFFERENT, IN THAT THERE IS NOT A LARGE
8 NUMBER OF LANDFILLS IN BUTTE COUNTY.

9 DOES THIS STILL -- WILL EXCEED THE 15-YEAR
10 CAPACITY TEST FOR THE COUNTY?

11 YOU MIGHT IDENTIFY THE OTHER LANDFILLS.

12 MR. BIRD: THERE ARE NO OTHER MUNICIPAL LANDFILLS
13 IN BUTTE COUNTY, THIS IS THE ONLY ONE.

14 CHAIRMAN PENNINGTON: EXCUSE ME, WILL YOU IDENTIFY
15 YOURSELF FOR THE RECORD?

16 MR. BIRD: THIS IS THE ONLY ONE UNDER PERMIT IN
17 BUTTE COUNTY.

18 I'M CHARLES BIRD, I'M THE LEA FOR BUTTE
19 COUNTY.

20 CHAIRMAN PENNINGTON: OKAY, THANK YOU.

21 MR. BIRD: I'M GETTING AHEAD OF MYSELF.

22 YES, 165 ACRES WE WILL HAVE CAPACITY PROBABLY
23 SOMEWHERE UP AROUND THE YEAR 2030, 2040, WHEN WE COME BACK
24 TO THE BOARD TO REVISE THE PERMIT TO OPEN UP THE REMAINING

1 PORTION OF IT. BUT RIGHT NOW WE FIGURE WE'RE GOOD FOR AT
2 LEAST 2018.

3 MEMBER FRAZEE: 2018. THAT HAS A SLIGHT BEARING
4 ON MY DECISION ON THIS, BECAUSE YOU'RE HINGING YOUR ENTIRE
5 COUNTY CAPACITY ON A SINGLE LANDFILL, AND I'LL HAVE TO WEIGH
6 THAT WHEN -- TO SEE. I GUESS THE EXPANSION CAPACITY IS
7 HERE, AND THAT HELPS MY COMFORT LEVEL QUITE A LITTLE BIT ON
8 THIS.

9 BUT IN THE CASE OF SANTA CLARA COUNTY, THERE
10 ARE NUMEROUS LANDFILLS, PLUS NEIGHBORING COUNTY LANDFILLS
11 THAT COULD TAKE UP ANY GAPS, SO.

12 CHAIRMAN PENNINGTON: MR. JONES, DID YOU HAVE A
13 QUESTION?

14 MEMBER JONES: WELL, JUST ONE ISSUE. THE
15 RESOLUTION, AS IT'S PRINTED DOESN'T HAVE THE SAME PARAGRAPH.
16 SO I'M WONDERING --

17 MS. KARL: I DISCUSSED THAT WITH ELLIOT BLOCK, AND
18 HE SAID -- LET'S SEE, THE SECOND FROM THE LAST WHEREAS?

19 MEMBER JONES: YEAH. I DON'T HAVE A PROBLEM WITH
20 WHAT YOU SAID HERE, BECAUSE WHAT YOU SAID IS BOARD STAFF
21 HAVE EVALUATED THE PROPOSED PERMIT FOR CONSISTENCY WITH THE
22 STANDARDS ADOPTED BY THE BOARD.

23 AND IT SEEMS TO ME THAT THAT KIND OF TAKES
24 CARE OF SENATOR ROBERTI'S ISSUE, BECAUSE THE POLICY OF THE

1 BOARD, THE STANDARD OF THE BOARD IS THAT WE'RE GOING TO GO
2 IN AND DO A POLICY ISSUE ON CONFORMANCE.

3 SO, WHERE THIS WAS A DROP-DEAD ISSUE, IT'S
4 NOT EVEN AN ISSUE HERE, AND I JUST THOUGHT IT WAS, YOU KNOW,
5 THE GIFT OF THE PEN -- OF THE WORD SMITH. AND THEY HAVE
6 AVOIDED ABOUT A HALF HOUR OF DISCUSSION.

7 MS. TOBIAS: WELL, LET ME TRY TO KILL THAT. I
8 REALLY DON'T KNOW WHY THESE RESOLUTIONS WOULD DIFFER. AND I
9 HAVE TO SAY THAT IT WOULD BE THE PREFERENCE OF MYSELF THAT
10 THE RESOLUTIONS WOULD BE PRETTY MUCH THE SAME, BECAUSE OF
11 THE SIMILARITY OF THE ISSUES AND, YOU KNOW, FOR ANY FUTURE
12 ACTIONS. SO --

13 MEMBER JONES: SHOULD WE GO BACK AND CHANGE THE
14 FIRST ONE?

15 MS. TOBIAS: MR. JONES, THAT WOULD CERTAINLY BE
16 ONE OF YOUR PREROGATIVES. I WOULD ARGUE FOR THE LANGUAGE OF
17 THE FIRST ONE MYSELF, BUT....

18 MEMBER JONES: I'M HAPPY WITH THE WAY THE
19 RESOLUTION IS THERE.

20 CHAIRMAN PENNINGTON: SENATOR ROBERTI?

21 MEMBER ROBERTI: I WOULD SAY WE SHOULD JUST
22 PROBABLY GO WITH THE IDENTICAL LANGUAGE.

23 CHAIRMAN PENNINGTON: OKAY, WE HAVE SOME --

24 MEMBER ROBERTI: AND I WOULD HATE TO TREAT A

1 COUNTY-OWNED FACILITY WITH LESS DEFERENCE THAN I AM A
2 PRIVATELY-OWNED FACILITY, AT LEAST THEY SHOULD BE EQUAL.

3 CHAIRMAN PENNINGTON: YOU'LL AGREE WITH THAT.

4 MEMBER JONES: ABSOLUTELY I WILL, ABSOLUTELY.

5 MEMBER EATON: CALL THE ROLL.

6 CHAIRMAN PENNINGTON: OKAY. NOW WE HAVE JIM
7 DEWEESE.

8 MEMBER JONES: DO THEY WANT TO SPEAK OR DO THEY
9 WANT TO HEAR A MOTION? ARE THERE ANY OPPOSED?

10 CHAIRMAN PENNINGTON: NO, THEY'RE ALL FOR IT.

11 MEMBER JONES: MR. CHAIRMAN, I'D LIKE TO MAKE A
12 MOTION. I WANT TO AMEND RESOLUTION 1999-30 TO INCLUDE AN
13 ADDITIONAL WHEREAS, THAT SAYS WHEREAS THE -- WHATEVER THE
14 LANGUAGE WAS FROM THE ONE, SO I DON'T MISSPEAK, AND WOULD
15 MOVE THAT FOR ADOPTION WITH THAT LANGUAGE INCLUDED AS A LAST
16 WHEREAS.

17 MS. TOBIAS: I THINK IT'S A REPLACEMENT FOR THE
18 SECOND TO THE LAST WHEREAS, AND I THINK THERE'S JUST THE
19 PHRASE LEFT OUT OF THAT ONE. I DON'T HAVE MINE BECAUSE
20 MARLENE TOOK IT FOR THE LANGUAGE. BUT I THINK YOU COULD
21 JUST SUBSTITUTE THE LANGUAGE OF THAT WHEREAS.

22 MEMBER JONES: FOR THE SECOND TO THE LAST WHEREAS?

23 MS. TOBIAS: THE SECOND TO THE LAST ONE. I THINK
24 THAT WOULD MEET THE NEEDS OF CONSISTENCY.

1 MEMBER JONES: THAT'S MY MOTION.

2 MEMBER FRAZEE: I WOULD SECOND THAT.

3 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
4 MR. JONES, AND SECONDED BY MR. FRAZEE, ADOPTION OF
5 RESOLUTION 99-30, AS AMENDED BY MS. TOBIAS.

6 IF THERE'S NO FURTHER DISCUSSION, WILL THE
7 SECRETARY CALL THE ROLL?

8 THE SECRETARY: BOARD MEMBER EATON?

9 MEMBER EATON: AYE.

10 THE SECRETARY: FRAZEE?

11 MEMBER FRAZEE: AYE.

12 THE SECRETARY: JONES?

13 MEMBER JONES: AYE.

14 THE SECRETARY: ROBERTI?

15 MEMBER ROBERTI: AYE.

16 THE SECRETARY: CHAIRMAN PENNINGTON?

17 CHAIRMAN PENNINGTON: AYE.

18 THE MOTION CARRIES.

19 YES, SENATOR ROBERTI?

20 MEMBER ROBERTI: IS IT PROPER NOW TO OFFER A
21 MOTION THAT WE DIRECT THE STAFF TO MAKE AN ASSESSMENT OF THE
22 ENTIRE PROBLEM REGARDING SECTION FIFTY ONE AND THAT THEY BE
23 DIRECTED TO MEET WITH THE VARIOUS STAKEHOLDERS FOR INPUT,
24 AND AT A REASONABLE TIME CERTAIN COME BACK TO THE BOARD WITH

1 THEIR RECOMMENDATIONS SO WE CAN ENGAGE IN A POLICY
2 STATEMENT.

3 AND, I DON'T KNOW, MAYBE MS. TOBIAS COULD
4 TELL US WHAT SHE THINKS A REASONABLE AMOUNT OF TIME WOULD
5 BE?

6 MS. TOBIAS: I'LL DEFER TO MS. FRIEDMAN.

7 MR. CHANDLER: NO, JUDY'S NOT HERE. BUT IT'S ALSO
8 GOING TO INVOLVE THE PERMITTING AND ENFORCEMENT DIVISION.

9 I THINK WE COULD BE BACK BEFORE YOU IN 60
10 DAYS. I'D LIKE TO HAVE -- NOT MAKE A COMMITMENT THAT WE'LL
11 BE BACK HERE AT THE FEBRUARY BOARD MEETING, BUT WE WILL
12 CERTAINLY SHOOT FOR THE BOARD MEETING THAT WILL OCCUR
13 SOMETIME IN MARCH, AS WE SET OUR CALENDAR.

14 MEMBER ROBERTI: IF NOT MARCH, APRIL?

15 MR. CHANDLER: THE MARCH/APRIL TIME FRAME.

16 MEMBER ROBERTI: OKAY.

17 MEMBER FRAZEE: I WILL SECOND THAT MOTION.

18 CHAIRMAN PENNINGTON: OKAY.

19 MEMBER JONES: MR. CHAIRMAN, MAY I ASK THE SENATOR
20 A QUESTION?

21 CHAIRMAN PENNINGTON: MR. JONES, CERTAINLY.

22 MEMBER JONES: OR THE BOARD. THOSE FACILITIES
23 THAT COME FORWARD FOR REVISIONS IN THEIR PERMIT BETWEEN NOW
24 AND THE TIME WE DETERMINE THAT POLICY, WILL WE BE INCLINED

1 TO TREAT THEM....

2 BECAUSE THERE'S GOING TO BE SOME THAT ARE IN
3 THE TUBE, I'M SURE, THAT ARE GOING TO COME FORWARD IN A
4 MONTH --

5 MEMBER ROBERTI: THAT'S A GOOD QUESTION, I HADN'T
6 THOUGHT OF THAT. WELL, IT DEPENDS ON THE PARAMETERS OF
7 DISCUSSION. THESE TWO PERMITS WERE FAIRLY NON-
8 CONTROVERSIAL. I MEAN, THEY DIDN'T REALLY CARRY ANY BAGGAGE
9 EXCEPT THEY GOT STUCK WITH THE INTERPRETATION, AND I DON'T
10 KNOW IF THAT'S THE CASE ON THE OTHERS.

11 MS. TOBIAS: WELL, FROM THE LEGAL POINT --

12 CHAIRMAN PENNINGTON: SO WE'D HAVE TO LOOK AT IT
13 ON A CASE-BY-CASE BASIS.

14 MEMBER ROBERTI: I THINK WE HAVE TO LOOK AT IT ON
15 A CASE-BY-CASE BASIS. BUT MAYBE, YOU KNOW, HOPEFULLY IF MR.
16 CHANDLER CAN BE BACK WITH US BY MARCH, AND CERTAINLY NO
17 LATER THAN APRIL, THEN I DON'T HAVE TOO GREAT A PROBLEM, IF
18 WE HAVE SIMILAR CASES LIKE THIS, LIKE THESE TWO, VOTING THE
19 SAME WAY.

20 IF THERE'S A PROBLEM -- IF THERE IS ANY
21 PUBLIC OPPOSITION, THEN I'D BE INCLINED TO WANT TO PUT THEM
22 OVER, UNLESS --

23 MEMBER JONES: SURE.

24 MEMBER ROBERTI: -- UNLESS WE HAVE NO OPTION.

CALIFORNIA SHORTHAND REPORTING

1 MEMBER EATON: YOU KNOW, ONE OF THE WAYS MAYBE TO
2 ALSO HANDLE IT, BECAUSE IT IS A LEGITIMATE ISSUE, IS THAT IF
3 WE COULD EITHER, THROUGH OUR -- THE APPROPRIATE DIVISION,
4 PROBABLY PERMITTING, INFORM THE LEAS AND THE OTHER TYPES OF
5 -- AND WITH THE HELP OF BOTH THE STAFF, AS WELL, INFORMING
6 THEM THAT THIS IS TAKING PLACE AND THAT THE PERMITS WILL BE
7 LOOKED AT. THAT KIND OF FALLS, OR DOVETAILS, INTO YOUR
8 NOTICE REQUIREMENT.

9 IT'S SIMPLY -- I WOULD ASSUME WE COMMUNICATE
10 WITH THEM ON A REGULAR BASIS ANYWAY, I DON'T THINK IT HAS TO
11 BE RISEN TO THE LEVEL OF AN ADVISORY, BUT SURELY SOME KIND
12 OF COMMUNICATION, EITHER -- YOU KNOW, FORMALLY THAT THIS IS
13 TAKING PLACE. AND THAT MAY HELP -- OR, STEM SOME OF THEM
14 FROM COMING FORWARD AT THE TIME -- GIVE US THAT TIME TO MAKE
15 THAT POLICY.

16 MS. TOBIAS: WELL, I MIGHT ALSO ADD, FROM THE
17 POINT OF VIEW OF THE LEGAL OFFICE, THAT I THINK THAT THE
18 BOARD DID SET A PARAMETER, IN THE SENSE OF LOOKING AT THE
19 CAPACITY ISSUE. AND THAT'S ONE OF THE REASONS I RAISED THIS
20 PROBLEM OF TAKING UP A PERMIT BEFORE WE HAVE A POLICY.

21 SO I THINK IF SOMEBODY, YOU KNOW, ASKS US, WE
22 ARE GOING TO BASICALLY REFER BACK TO THIS DISCUSSION THAT
23 TALKS ABOUT THE NOTICING THAT SENATOR ROBERTI BROUGHT UP,
24 AND THAT -- THE CAPACITY ISSUE THAT MR. FRAZEE BROUGHT UP,

1 IN TERMS OF DO THEY HAVE THE CAPACITY, DO THEY MEET THE
2 INTENT AT LEAST OF THAT PLAN. AND I THINK THAT THAT'S WHAT
3 WE WOULD BE LOOKING AT AS WE REVIEW THOSE AGENDA ITEMS,
4 UNTIL WE GET A POLICY ITEM FINISHED.

5 MEMBER JONES: YEAH. MY CONCERN WAS THAT THOSE
6 FACILITIES THAT WOULD COME FORWARD WOULD AT LEAST GET THAT,
7 YOU KNOW, INDIVIDUAL TYPE LOOK-AT, AS OPPOSED TO WE'RE NOT
8 GOING TO LOOK AT THEM UNTIL WE HAVE THIS POLICY. BECAUSE,
9 BELIEVE IT OR NOT, THAT CAN GET VERY CRAZY. SO NOT A
10 PROBLEM, THAT'LL WORK.

11 CHAIRMAN PENNINGTON: OKAY. WE HAVE A MOTION BY
12 SENATOR ROBERTI, AND SECONDED BY MR. FRAZEE, TO CONVENE THE
13 POLICY DISCUSSION ON CONFORMANCY.

14 IF THERE'S NO FURTHER DISCUSSION, WILL THE
15 SECRETARY CALL THE ROLL?

16 THE SECRETARY: BOARD MEMBER EATON?

17 MEMBER EATON: AYE.

18 THE SECRETARY: FRAZEE?

19 MEMBER FRAZEE: AYE.

20 THE SECRETARY: JONES?

21 MEMBER JONES: AYE.

22 THE SECRETARY: ROBERTI?

23 MEMBER ROBERTI: AYE.

24 THE SECRETARY: CHAIRMAN PENNINGTON?

CALIFORNIA SHORTHAND REPORTING

1 CHAIRMAN PENNINGTON: AYE.

2 THE MOTION CARRIES.

3 ITEM NO. 13: CONSIDERATION OF INYO COUNTY'S REVISED
4 COMPLIANCE SCHEDULE FOR SUBMITTAL OF THE COUNTYWIDE SITING
5 ELEMENT

6 CHAIRMAN PENNINGTON: WE'RE GOING TO TAKE ONE OUT
7 OF ORDER HERE, 13, WHICH IS CONSIDERATION OF INYO COUNTY'S
8 REVISED COMPLIANCE SCHEDULE FOR SUBMITTAL OF THE COUNTYWIDE
9 SITING ELEMENT.

10 MR. SCHIAVO: GOOD MORNING CHAIRMAN, BOARD
11 MEMBERS, I'D LIKE TO PRESENT ITEM NO. 13, CONSIDERATION OF
12 INYO COUNTY'S REVISED COMPLIANCE SCHEDULE FOR SUBMITTAL OF
13 THE COUNTYWIDE SITING ELEMENT. AND I'M PAT SCHIAVO OF THE
14 OFFICE OF LOCAL ASSISTANCE.

15 BEFORE WE GO ON WITH THE FORMAL PRESENTATION
16 I'D JUST LIKE TO MENTION THAT ALL OF THE DOCUMENTS WERE
17 ORIGINALLY DUE IN 1996, AND SINCE THAT TIME THE BOARD HAS
18 GIVEN OUT SEVERAL EXTENSIONS TO JURISDICTIONS TO SUBMIT THE
19 DOCUMENTS.

20 SO, DIANE SHIMIZU WILL BE MAKING THE FORMAL
21 PRESENTATION FOR YOU.

22 CHAIRMAN PENNINGTON: THANK YOU.

23 MS. SHIMIZU: GOOD MORNING CHAIRMAN PENNINGTON AND
24 BOARD MEMBERS. ITEM NO. 13 IS A REQUEST BY INYO COUNTY TO

1 EXTEND THE DEADLINE FOR SUBMITTING THE COUNTYWIDE SITING
2 ELEMENT TO APRIL 23RD, 1999.

3 ON JANUARY 28TH, 1998, THE BOARD HEARD AN
4 ITEM REGARDING JURISDICTIONS WITH LATE PLANNING DOCUMENTS.
5 THE BOARD ADOPTED RESOLUTION 98-28, ACCEPTING COMPLIANCE
6 SCHEDULES FOR SUBMITTING THE MISSING DOCUMENTS FOR SEVERAL
7 JURISDICTIONS, INCLUDING INYO COUNTY.

8 AT THE APRIL 29TH, 1998, BOARD MEETING THE
9 BOARD CONSIDERED AND APPROVED REVISED COMPLIANCE SCHEDULES
10 FOR SUBMITTING PLANNING DOCUMENTS.

11 INYO COUNTY SUBMITTED A REVISED COMPLIANCE
12 SCHEDULE IN WHICH THEY SET A DUE DATE OF DECEMBER 9TH, 1998,
13 FOR SUBMITTING THE MISSING SITING ELEMENT AND SUMMARY PLAN.

14 THE COUNTY PETITIONED THE BOARD AND WAS
15 EXEMPTED FROM PREPARING A SUMMARY PLAN AT THE AUGUST 13TH,
16 1998, BOARD MEETING. THIS MEANT THAT THE SITING ELEMENT WAS
17 THE ONLY DOCUMENT TO BE SUBMITTED BY DECEMBER 9TH.

18 THE COUNTY HIRED A CONSULTANT TO DRAFT THE
19 SITING ELEMENT. BOARD STAFF RECEIVED THE PRELIMINARY DRAFT
20 SITING ELEMENT ON JUNE 8TH, 1998, AND MAILED COMMENTS TO
21 INYO COUNTY ON JULY 17TH. AT THE SAME TIME, HOWEVER, THE
22 CONSULTANTS THAT DRAFTED THE PRELIMINARY DRAFT SITING
23 ELEMENT CLOSED THEIR OFFICE. THE COUNTY CHOSE TO FIND
24 ANOTHER CONSULTING FIRM TO COMPLETE THE PROJECT.

1 ON NOVEMBER 19TH, 1998, THE COUNTY'S NEWLY-
2 HIRED CONSULTANT FOR THE SITING ELEMENT PROJECT CALLED STAFF
3 TO PROPOSE A REVISED COMPLIANCE SCHEDULE. STAFF RECEIVED
4 THE FORMAL WRITTEN REQUEST FROM THE COUNTY TO REVISE THE
5 COMPLIANCE SCHEDULE ON DECEMBER 4TH, 1998.

6 WHEN THE DECEMBER 9TH DEADLINE PASSED WITHOUT
7 RECEIPT OF INYO COUNTY'S SITING ELEMENT STAFF SENT A LETTER
8 TO THE INYO COUNTY BOARD OF SUPERVISORS STATING THAT THE
9 COUNTY HAD 60 DAYS FROM RECEIPT OF THAT LETTER TO SUBMIT THE
10 COMPLETED DOCUMENT.

11 THE LETTER EXPLAINED THAT, IN THE ABSENCE OF
12 AN APPROVED EXTENSION TO THE DUE DATE, IF THE MISSING
13 DOCUMENT WAS STILL NOT RECEIVED WITHIN THE 60-DAY PERIOD,
14 THEN THE BOARD WOULD SCHEDULE A HEARING AT THE EARLIEST
15 POSSIBLE DATE TO DETERMINE WHETHER TO IMPOSE ADMINISTRATIVE
16 CIVIL PENALTIES AGAINST THE COUNTY.

17 SINCE THIS AGENDA ITEM WAS WRITTEN INYO
18 COUNTY HAS MADE ADDITIONAL PROGRESS ON THEIR SITING ELEMENT.

19 THE COUNTY'S CONSULTANT SUBMITTED A SECOND DRAFT OF THE
20 SITING ELEMENT AND REQUESTED ADDITIONAL FEEDBACK FROM STAFF.

21 THIS DRAFT, RECEIVED ON DECEMBER 29TH, ADDRESSED MOST OF
22 THE BOARD STAFF'S COMMENTS MADE ON THE PRELIMINARY DRAFT.
23 STAFF FAXED COMMENTS ON THE SECOND DRAFT TO THE COUNTY AND
24 CONSULTANT ON JANUARY 15TH OF THIS YEAR.

1 ALTHOUGH STAFF ARE WORKING CLOSELY WITH THE
2 JURISDICTION TO EXPEDITE THE PROCESS OF COMPLETING THE
3 COUNTY'S SITING ELEMENT, THERE STILL REMAINS THE BOARD'S
4 CONCERN OVER THE APPARENT INEQUITY IN ALLOWING SOME
5 JURISDICTIONS TO EXTEND THEIR COMPLIANCE SCHEDULES WHEN
6 OTHER JURISDICTIONS HAVE SUBMITTED THEIR DOCUMENTS ON TIME.

7 ADDITIONALLY, THE BOARD HAS PROVIDED GENERAL
8 DIRECTION THAT THE MISSING DOCUMENTS BE SUBMITTED BY THE END
9 OF 1998.

10 STAFF ARE, THEREFORE, RECOMMENDING
11 DISAPPROVAL OF INYO COUNTY'S REVISED COMPLIANCE SCHEDULE.

12 CHUCK HAMILTON OF INYO COUNTY, AND THE
13 COUNTY'S CONSULTANT, EVAN NIKIRK, ARE PRESENT TODAY TO
14 ADDRESS THIS ITEM.

15 THIS CONCLUDES MY PRESENTATION. ARE THERE
16 ANY QUESTIONS?

17 CHAIRMAN PENNINGTON: QUESTIONS OF STAFF? OKAY.
18 IF NOT, CHUCK HAMILTON.

19 MR. HAMILTON: GOOD MORNING, CHUCK HAMILTON,
20 DIRECTOR OF THE WASTE MANAGEMENT PROGRAM IN INYO COUNTY.
21 BEFORE I -- I HAVE EVAN NIKIRK WITH ME, TOO, FROM
22 ENVIRONMENTAL RESOURCES INTERNATIONAL, CARSON CITY.

23 BEFORE I MAKE ANY COMMENT WITH REGARD TO ITEM
24 13, I JUST WANT TO TAKE A SECOND AND THANK THIS BOARD, AND

1 BOARD MEMBERS FRAZEE AND JONES IN PARTICULAR, AND YOUR
2 STAFF, FOR ALL THE HELP THAT YOU GAVE US IN CLEANING UP OUR
3 EXISTING TIRE PILE IN INYO COUNTY. THE TIRES ARE GONE, AND
4 THERE ARE SOME LEFT THAT WE ARE USING AS DAILY COVER, AS AN
5 ALTERNATIVE DAILY COVER. AND I APPRECIATE YOUR STAFF'S HELP
6 AND THE BOARD'S HELP.

7 WITH REGARD TO ITEM 13, AS STAFF STATED, THE
8 COUNTY DID SUBMIT A SITING ELEMENT IN JUNE OF '98, AND AT
9 THAT SAME TIME -- AND WE DID RECEIVE COMMENTS FROM STAFF AND
10 WE -- AT THE SAME TIME -- THIS IS WHEN THE CONSULTANT,
11 VICTOR ENGINEERING, THAT PREPARED THE SITING ELEMENT WAS
12 CLOSING THEIR OFFICE, AND IT THREW US INTO SOME TURMOIL.

13 AND SO WE WERE OUT SCRAMBLING TO TRY TO FIND
14 ANOTHER CONSULTANT TO ADDRESS THE COMMENTS IN THE ORIGINAL
15 SITING ELEMENT. AND WE WENT THROUGH THE PROCESS OF HIRING A
16 NEW CONSULTANT, AND IT WAS ERI, EVAN NIKIRK, AND HE WAS
17 BROUGHT UP TO SPEED.

18 AND THEN WE GAVE HIM THE SITING ELEMENT
19 PROVISIONS AS OUR TOP PRIORITY TO BE SUBMITTED TO THE STATE.

20 AND AS STAFF HAS STATED, THE SITING ELEMENT IS DONE AND IS
21 BEING CIRCULATED FOR REVIEW RIGHT NOW. AND WE WILL BE
22 RECEIVING COMMENTS FROM THE STAKEHOLDERS, THE COMMENTS ARE
23 DUE FEBRUARY 12TH.

24 NOW, WE CAN MAKE A MARCH 31 DEADLINE, OR

1 SUBMITTAL DATE FOR LOCAL ADOPTION IF WE WERE TO DO A NOTICE
2 OF EXEMPTION FOR CEQA --

3 MEMBER JONES: YOU CAN'T DO THAT.

4 MR. HAMILTON: -- OR A MAY 31ST DEADLINE, IF WE GO
5 THROUGH THE NEG DEC PROCESS.

6 IN TALKING WITH THE INYO COUNTY PLANNING
7 DIRECTOR, HE'S REVIEWED THE SITING ELEMENT AND HE HAS MADE
8 COMMENT THAT THE PROJECT, IN HIS OPINION, DOES MEET THE
9 EXEMPTION STATUS UNDER CEQA REQUIREMENTS. BECAUSE, HE WAS
10 SAYING THAT THE PLANNING -- OR, THE CEQA ELEMENT IS A
11 PLANNING DOCUMENT -- OR, SITING ELEMENT, I'M SORRY, IS A
12 PLANNING DOCUMENT, AND IT'S AN ONGOING PROJECT.

13 AND THE COUNTY LANDFILLS DO EXCEED THE 15-
14 YEAR CAPACITY REQUIREMENT. IN FACT, WE HAVE A AVERAGE SITE
15 LIFE OF 76 YEARS FOR OUR LANDFILLS.

16 AND, ALSO, THAT ANY FUTURE PERMITTING AND/OR
17 EXPANSION WILL REQUIRE CEQA REVIEW PRIOR TO THE PROJECT
18 IMPLEMENTATION.

19 WE FEEL THAT WE ARE MAKING GOOD STRIDES IN
20 INYO COUNTY WITH OUR NEW CONSULTANT BEING ON BOARD, AND
21 GETTING ON TRACK. WE WERE JUST INSPECTED BY YOUR STAFF LAST
22 WEEK.

23 AND THEN, LIKE I SAID, THE TIRES ARE GONE.
24 WE'VE GOT FENCING UP AROUND OUR LAST -- WE HAVE FIVE

1 LANDFILLS, AND WE STARTED WITH A FIVE-YEAR PLAN, THIS IS THE
2 FIFTH YEAR OF THAT FIVE-YEAR PLAN, AND WE JUST COMPLETED THE
3 FENCING OF OUR LAST SITE OUT IN TACOPA (PHON), THAT'S OUT
4 NEAR DEATH VALLEY.

5 WE HAVE BID OPENINGS TODAY TO FENCE THE
6 BISHOP/SUNLAND (PHON) SITE. WHEN WE REMOVED THE TIRES --
7 PART OF THOSE TIRES WERE A PERIMETER FENCE, AND SO WE ARE
8 OPENING BIDS TODAY TO CONSTRUCT A FENCE AROUND THE SITE.

9 AND WE HAVE COMPLETED THE SITE COVERAGE. WE
10 WANTED -- WE CONTRACTED WITH A EQUIPMENT OPERATOR OUT OF
11 RIDGECREST, CALIFORNIA, TO PROVIDE COVERAGE OF SOME
12 DAYLIGHTING WASTE ON TWO OF OUR SITES, AND THAT'S BEEN
13 COMPLETED. IT TOOK LONGER THAN WE THOUGHT IT WAS GOING TO
14 TAKE, BUT IT'S -- HE HAS NOW COMPLETED THE WORK.

15 AND WE ARE WORKING AT A FEVERISH PACE.
16 EVERYTHING IS IN THE PIPELINE TO BE COMPLETED, WE JUST NEED
17 A LITTLE MORE TIME. THE FUNDING IS THERE FOR -- THE BOARD
18 OF SUPERVISORS HAS ALLOCATED THE FUNDING TO FINISH THE WORK.

19 IT'S JUST THAT WE NEED A LITTLE MORE TIME, AND I ASK THAT
20 THE BOARD PLEASE GIVE US THAT TIME.

21 THAT'S ALL I'VE GOT TO SAY, UNLESS THERE'S
22 ANY QUESTIONS.

23 CHAIRMAN PENNINGTON: QUESTIONS OF MR. HAMILTON?

24 DID MR. NIKIRK WANT TO SAY ANYTHING? OKAY.

1 MEMBER JONES: MR. CHAIRMAN?

2 CHAIRMAN PENNINGTON: MR. JONES.

3 MEMBER JONES: I HAVE A COUPLE COMMENTS.

4 CHAIRMAN PENNINGTON: OKAY.

5 MEMBER JONES: THE WORD "FEVERISH PACE" AND "INYO
6 COUNTY" JUST DON'T WORK IN THE SAME SENTENCE, AND I SAY
7 THAT WITH RESPECT.

8 BUT I ALSO SAY IT WITH THE FACT THAT I'VE
9 GONE THERE, I'VE BEEN THERE, I WAS ASKED TO GO THERE TO HELP
10 ON SOME ISSUES. AND I KEEP GETTING UPDATES FROM OUR STAFF
11 ON HOW WE'RE DOING ON OUR COMPLIANCE, HOW WE'RE DOING ON
12 THOSE TYPES OF THINGS, AND WE'RE FALLING BEHIND.

13 WE PUSHED, MR. FRAZEE AND I, AND MR. RELIS
14 (PHON) TO DEAL WITH A TIRE ISSUE, THAT HAD SOME STRINGS
15 ATTACHED TO IT, THAT I UNDERSTAND PROBABLY AREN'T BEING
16 TAKEN CARE OF.

17 AND, YOU KNOW, AT WHAT POINT DO WE SAY THAT
18 ENOUGH'S ENOUGH? BECAUSE THERE IS A POINT, IN MY MIND.
19 THERE'S A POINT WHEN THESE THINGS HAVE TO BE DONE.

20 NOW WE'RE TALKING ABOUT A NOTICE OF EXEMPTION
21 TO GET THIS DONE EARLIER, WHEN OUR BOARD STAFF HAS ALWAYS
22 SAID A NOTICE OF EXEMPTION DOESN'T WORK FOR THESE DOCUMENTS,
23 IT IS A NOTICE OF DETERMINATION, SO THAT PEOPLE HAVE THE
24 RIGHT TO COMMENT. TO GO THROUGH THE PROCESS THAT CEQA IS

1 DEALT WITH, THAT YOU'VE GOT PUBLIC ACCESS TO THE ISSUES, AND
2 SO THAT'S GOING TO TAKE YOU OUT A LITTLE BIT LONGER.

3 BUT, YOU KNOW, THESE THINGS WERE DUE IN 1996.

4 AND I AM VERY SYMPATHETIC, AS YOU KNOW, TO THE PLIGHT OF
5 RURAL CALIFORNIA.

6 AND I'M ALSO RELIEVED THAT YOUR BOARD OF
7 SUPERVISORS, AND I HAVE SAID IT BEFORE, HAVE STEPPED UP AND
8 DONE SOME INCREDIBLY COURAGEOUS THINGS. WHEN THEY FENCED IN
9 WHAT WAS ALWAYS A RIGHT IN INYO COUNTY TO GO TO THE DUMP
10 ANYTIME YOU WANTED TO AND DUMP WHATEVER YOU WANTED, AND
11 WITHOUT ANY OVERSIGHT OF WHAT THAT MATERIAL COULD BE, THAT
12 TOOK A LOT OF COURAGE FROM THAT BOARD OF SUPERVISORS. AND
13 WE HAVE BEEN WORKING VERY, VERY HARD TO TRY AND GET INYO
14 COUNTY INTO COMPLIANCE, AND YOUR BOARD HAS MADE THE
15 APPROPRIATE FUNDING LEVELS AVAILABLE.

16 BUT, I'VE GOT TO TELL YOU, WE'RE GOING TO
17 HAVE TO -- THIS IS A SITING ELEMENT, THIS AIN'T BRAIN
18 SURGERY. YOU KNOW, THIS IS STUFF THAT CAN GET DONE QUICKLY.

19 AND I THINK IT HAS TO BE DONE QUICKLY.

20 AND I'M SERIOUS WHEN I SAY, YOU KNOW,
21 FEVERISH -- FEVERISH, IN MY MIND MEANS WHATEVER IT TAKES TO
22 GET THE JOB DONE WHEN I PROMISE TO GET THE JOB DONE. AND
23 YOU PROMISED TO GET THIS JOB DONE BY THE END OF LAST YEAR.
24 AND THAT'S AN ISSUE FOR ME.

1 MR. HAMILTON: I CAN APPRECIATE THAT. THANK YOU.

2 IT'S JUST THAT -- YOU KNOW, I CAN OFFER SOME
3 EXCUSES, AND THAT'S WHAT THEY ARE, YOU CAN GIVE UP A MILLION
4 EXCUSES AND NOT ONE GOOD ONE. BUT, WE DID GO THROUGH SOME
5 PROBLEMS WITH OUR EXISTING -- I MEAN, OUR FORMER CONSULTANT.

6 AND LIKE I SAID, THE WORK IS IN THE PIPELINE NOW AND IT'S
7 GOING TO BE COMPLETED. NOT AS SOON AS I'D LIKE TO SEE IT
8 COMPLETED, BUT IT'S IN THE WORKS, IT'S DONE.

9 LIKE THE SITING ELEMENT IS THERE, IT'S JUST
10 GOING THROUGH THE REVIEW PROCESS NOW, AND THAT'S THE 45-DAY,
11 OR THE 30-DAY REVIEW PERIOD. AND THEN WE DO A NOTICE OF
12 DETERMINATION, THAT'S A 45-DAY PERIOD, THROUGH CEQA. AND WE
13 CAN DO THAT. AND I MENTIONED THE EXEMPTION ONLY TO TRY TO
14 SPEED IT UP, BUT WE CAN DO THE NOTICE OF DETERMINATION, BUT
15 THAT'S GOING TO TAKE A 45-DAY PERIOD.

16 AND, YEAH, I'D LOVE TO SEE IT DONE TOO. I
17 DIDN'T WANT TO BE HERE DOING THIS. BUT, TO IMPOSE A -- YOU
18 KNOW, FINES OR PENALTIES, I CAN'T SPEED THAT PROCESS UP.
19 AND I WANT -- IF I COULD, I WOULD. I JUST KNOW THAT GOING
20 THROUGH THE CEQA PROCESS IS GOING TO TAKE SOME TIME. IT'S
21 THERE, IT'S GOING TO BE DONE.

22 MEMBER JONES: THE FACT THAT YOUR CITY -- OR, I
23 MEAN, YOUR COUNTY PROBABLY CAN'T AFFORD THE FINES IS AN
24 ISSUE.

1 BUT THERE WERE CONDITIONS THAT WERE ATTACHED
2 TO THE TIRE CLEANUP?

3 MR. HAMILTON: UM-HUM.

4 MEMBER JONES: THERE WERE CONDITIONS THAT WERE
5 ATTACHED TO THE COMPLIANCE SCHEDULE.

6 AND WE'RE DEALING WITH THIS AS A PLANNING
7 ISSUE, BECAUSE THAT'S ALL IT IS, IT'S A SUMMARY PLAN, THE
8 SITING ELEMENT. BUT, YOU KNOW, IF WE HAD THE OTHER TWO
9 ISSUES IN THE AGENDA ITEM BEHIND IT -- YOU KNOW?

10 MR. HAMILTON: RIGHT.

11 MEMBER JONES: THEN WHERE WOULD WE BE? WOULD WE
12 BE LOOKING AT, YOU KNOW, MORE PROMISE...?

13 I GUESS WHAT I'M SAYING, I'M NOT SURE THAT WE
14 NEED TO FINE ANYBODY -- I KNOW WE HAVE TO GET THIS THING
15 DONE. BUT I DON'T KNOW WHAT IT'S GOING TO TAKE TO LET YOU
16 KNOW THAT, AS FAR AS THIS BOARD MEMBER GOES, MY PATIENCE HAS
17 RUN AS THIN AS PARTS OF MY SCALP. AND IT IS NOT GOING TO BE
18 STRETCHED, BECAUSE IT JUST AIN'T GOING BACK. AND I'M
19 TELLING YOU -- I MEAN, THIS CAN'T KEEP GOING, IT JUST CAN'T.

20 MR. HAMILTON: AND I AGREE 100 PERCENT.

21 CHAIRMAN PENNINGTON: OKAY, ANY ADDITIONAL
22 QUESTIONS?

23 MEMBER FRAZEE: MR. CHAIRMAN?

24 CHAIRMAN PENNINGTON: MR. FRAZEE.

1 MEMBER FRAZEE: I CERTAINLY SHARE MR. JONES'
2 CONCERNS ON THIS ONE, AND IT IS A DIFFICULT ONE. BUT I'M
3 WONDERING WHAT IS ACHIEVED BY NOT GRANTING THE EXTENSION,
4 AND GOING THROUGH THE PROCESS OF BRINGING -- SETTING A
5 HEARING, POTENTIAL FINES AND ALL OF THAT. AND THAT'S GOING
6 TO RUN CONCURRENT WITH THE FACT THEY'RE GOING TO FINISH THIS
7 ANYWAY.

8 SO, IT MEANS A LOT MORE WORK FOR US. IT PUTS
9 A CLOUD ON INYO COUNTY. AND OF ALL OF THE COUNTIES IN THE
10 STATE, THEY HAVE HAD THE BIGGEST CHALLENGE I THINK, BECAUSE
11 OF THE HUGE GEOGRAPHIC AREA THAT THEY'RE REQUIRED TO SERVE,
12 WITH ALL OF THE LANDFILLS THAT ARE NECESSARY, PLUS THE
13 MINIMUM POPULATION AND THE MINIMUM RESOURCES. AND I THINK
14 THEY'VE MADE SOME GREAT STRIDES.

15 YOU KNOW, I GUESS I'M JUST FEELING BIG AND
16 EASY HERE NOW THAT I'M LEAVING THE BOARD. BUT I WOULD BE
17 WILLING TO GRANT THEM THEIR REQUEST FOR -- WHAT'S THE DATE?
18 APRIL 23RD.

19 CHAIRMAN PENNINGTON: DO YOU WANT TO MAKE THAT AS
20 A MOTION?

21 MR. NIKIRK: MR. CHAIRMAN, IF I MAY THROW IN A
22 COMMENT?

23 MEMBER EATON: LET ME JUST ASK A QUICK --

24 CHAIRMAN PENNINGTON: MR. EATON?

1 MR. NIKIRK: MY NAME IS EVAN NIKIRK, AND I'M WITH
2 ERI IN CARSON CITY. WE'RE THE CONSULTANT TO THE -- INYO
3 COUNTY.

4 AND I JUST WANTED TO SAY THAT THE SITING
5 ELEMENT HAS BEEN COMPLETED AND, AS CHUCK STATED, IS GOING
6 THROUGH THE 30-DAY REVIEW PROCESS RIGHT NOW. BOARD STAFF
7 HAVE SUBMITTED THEIR COMMENTS, AND THEY HAVE BEEN RESPONDED
8 TO. COMMENTS ARE MINIMAL AT THIS POINT. I DON'T EXPECT ANY
9 SUBSTANTIAL COMMENTS. AND LOCAL ADOPTION I EXPECT TO TAKE
10 PLACE VERY CLOSE TO THE CONCLUSION OF THAT 30-DAY REVIEW
11 PERIOD. AND AT THAT POINT IT'S JUST A MATTER OF COMPLETING
12 THE CEQA PROCESS.

13 MEMBER ROBERTI: MR. CHAIRMAN? SO, AS I
14 UNDERSTAND WHAT YOUR -- WHAT IS STILL INCOMPLETE IN THE
15 PROCESS IS THE LOCAL COMMENT, THE PUBLIC COMMENT RATHER,
16 PRIMARILY?

17 MR. NIKIRK: AND CEQA, PRIMARILY.

18 MEMBER ROBERTI: AND CEQA?

19 MR. NIKIRK: I THINK THAT WAS -- SENATOR ROBERTI,
20 I THINK THAT WHAT WAS MORE OF A CONCERN TO US, WAS THE
21 REPRESENTATION THAT THEY INTEND TO SEEK A NOTICE OF
22 EXEMPTION. THEY MIGHT SEEK NOTICE OF EXEMPTION.

23 MEMBER ROBERTI: FROM?

24 MR. CHANDLER: FROM THE NOTICING OF -- IN THE CEQA

1 PROCESS, THE VERY DOCUMENT YOU'RE JUST REFERRING TO, AND I
2 JUST WANT TO MAKE SURE THAT, GIVEN OUR EARLIER DISCUSSION,
3 THAT WE HAVE SOMETHING TO SAY ABOUT THAT. AND I BELIEVE
4 COUNSEL WILL BE HERE SHORTLY.

5 MEMBER ROBERTI: AND HOW MUCH TIME WILL WE BE
6 TALKING ABOUT IF WE DIDN'T GIVE THE NOTICE OF EXEMPTION? I
7 MEAN, THE -- NO, THE NOTICE OF EXEMPTION FROM THE CEQA.

8 MR. NIKIRK: IF THE NEGATIVE DECLARATION PROCESS
9 IS PURSUED, THEN I WOULD SUSPECT THAT -- OR, I WOULD EXPECT
10 IT TO BE COMPLETED BY MAY 31ST OF THIS YEAR, JUST BECAUSE OF
11 THE TIME FRAME FOR THE VARIOUS APPROVAL PROCESSES, INCLUDING
12 GOING THROUGH THE STATE CLEARINGHOUSE FOLLOWING THE LOCAL
13 ADOPTION.

14 CHAIRMAN PENNINGTON: SHALL WE TRY AGAIN, MR.
15 EATON?

16 MS. TOBIAS: CAN I JUST ASK --

17 MEMBER EATON: OH, SURE, ABSOLUTELY. ALL MY
18 QUESTIONS ARE GETTING ANSWERED.

19 CHAIRMAN PENNINGTON: MR. EATON HAS THE FLOOR.

20 MEMBER EATON: GO AHEAD.

21 MS. TOBIAS: I'M JUST WONDERING, ON YOUR SCHEDULE
22 -- I'M LOOKING AT THE ONE IN THE AGENDA, AND I'M WONDERING
23 ON A NEG DEC PROCESS, ARE YOU OFF THIS SCHEDULE NOW?
24 BECAUSE IT BASICALLY SAYS THAT YOU WERE GOING TO FILE A CEQA

1 DOCUMENT DECEMBER 18TH.

2 BUT IT SOUNDS LIKE YOU'RE GOING TO DO -- IF
3 YOU'RE FILING A NEG DEC SOMEWHERE AROUND MARCH 1ST, OR MARCH
4 15TH, YOU'RE GOING TO HAVE 30 DAYS TO CIRCULATE THE NEG DEC,
5 INCLUDING THE HEARINGS WITH THAT.

6 SO, IS MAY 31ST YOUR BEST ESTIMATE ON --
7 REALISTICALLY, WHAT YOU'RE GOING TO DO THERE?

8 MR. NIKIRK: YES, IT IS.

9 MS. TOBIAS: OKAY.

10 CHAIRMAN PENNINGTON: OKAY. DO YOU WANT TO TRY
11 NOW, MR. EATON?

12 MEMBER EATON: I JUST THINK THE LONG AND SHORT OF
13 IT IS -- AND IT'S JUST A VERY SIMPLE QUESTION WITH
14 SCHEDULING AND WHAT HAVE YOU -- IF YOU'RE ASKING FOR AN
15 EXTENSION TO APRIL 23RD, YOU CAN'T MEET IT UNDER THE WORST-
16 CASE SCENARIO. I'M JUST TRYING TO FIND OUT WHAT -- IF
17 THERE'S SYMPATHY HERE, WHAT IS THE WORST CASE SCENARIO?

18 IF WE GRANT YOU AN EXTENSION TO APRIL 23RD,
19 YOU COME BACK AT EITHER THE MARCH OR THE APRIL MEETING AND
20 SAY WE TRIED TO GET YOU, BUT WE -- YOU KNOW, WE'VE JUST GOT
21 20 MORE DAYS, WE MIGHT AS WELL JUST FIGURE OUT WHAT'S THE
22 WORST-CASE SCENARIO HERE AND THEN, BASED UPON THAT, MAKE A
23 DETERMINATION WHETHER OR NOT THAT'S REASONABLE.

24 THAT'S ALL. I MEAN, SO THAT'S REALLY -- WHAT

1 IS THE WORST-CASE SCENARIO? I MEAN, HELP ME THROUGH THE
2 PROCESS.

3 MR. NIKIRK: YEAH. THE WORST-CASE SCENARIO IS MAY
4 31ST.

5 MEMBER JONES: MR. CHAIRMAN?

6 CHAIRMAN PENNINGTON: MR. JONES.

7 MEMBER JONES: I THINK THAT'S -- AS MUCH AS I WANT
8 TO SEE THE FAST TRACK, THE DATES, I DON'T THINK, ARE GOING
9 TO -- I DON'T KNOW IF THEY WILL. BUT LET'S SAY JUNE 15TH.
10 AND I'M WONDERING....

11 MR. CHAIRMAN, I'M PREPARED TO MOVE THAT WE DO
12 THE RESOLUTION TO ADOPT A REVISED SCHEDULE, THE APPROVAL OF
13 A REVISED SCHEDULE TO JUNE 15TH, BUT I WOULD LIKE TO ADD
14 SOMETHING.

15 CHAIRMAN PENNINGTON: OKAY.

16 MEMBER JONES: AND THAT IS THE FACT THAT TODAY WE
17 HAVE THE RIGHT TO HOLD A HEARING AND ASSESS FINES. I'M NOT
18 PREPARED TO DO THAT TODAY, OBVIOUSLY I DON'T THINK THE OTHER
19 BOARD MEMBERS ARE.

20 MY FRUSTRATION IS FROM THE FACT THAT I SPENT
21 A LOT OF MY OWN TIME TRYING TO WORK WITH YOU GUYS, SO....
22 BUT I THINK THAT YOU NEED TO KNOW THAT THERE IS A POTENTIAL
23 FOR A \$10,000-A-DAY FINE. NOW, IN JURISDICTIONS OF YOUR
24 SIZE MAYBE THAT'S 2500 BUCKS, I DON'T KNOW.

1 BUT, I THINK JUNE 15TH IS THE DATE THAT IT
2 NEEDS TO BE DONE. AND IF IT ISN'T THEN I THINK -- YOU KNOW,
3 I'D LIKE TO ADD THAT WE SET UP A HEARING 60 DAYS FROM THAT
4 DATE FOR NON-COMPLIANCE THAT'S GOING TO INCLUDE FINES. AND
5 THE NEG DEC HAS TO BE DONE, NOT A NOTICE OF EXEMPTION. THE
6 PUBLIC HAS TO BE ABLE TO COMMENT.

7 MR. HAMILTON: I CAN ACCEPT THAT.

8 CHAIRMAN PENNINGTON: SENATOR ROBERTI?

9 MEMBER ROBERTI: I JUST WANT TO ADD THAT, ALONG
10 THE LINES OF WHAT MR. FRAZEE WAS SAYING, INYO COUNTY'S VERY,
11 VERY LARGE AND HAS FEW RESOURCES. AND I WAS COMING IN
12 PREPARED TO GO ALONG WITH THE FINE.

13 BUT, ONE REASON WHY YOU HAVE FEW RESOURCES IS
14 BECAUSE THE CITY OF LOS ANGELES HAS TAKEN MOST OF THEM.
15 AND, SO I THINK I OWE THE COUNTY OF INYO AT LEAST ONE OF MY
16 FIRST VOTES, AND GIVE YOU A LITTLE DEFERENCE, BECAUSE IT IS
17 A PROBLEM. SO, I THINK MR. JONES IS ON THE RIGHT TRACK
18 HERE.

19 CHAIRMAN PENNINGTON: CAN I TAKE THAT AS A SECOND
20 TO MR. JONES' --

21 MEMBER ROBERTI: YEAH --

22 MR. SCHIAVO: MR. CHAIRMAN, MAY I MAKE ONE
23 COMMENT?

24 CHAIRMAN PENNINGTON: SURE.

1 MR. SCHIAVO: I JUST WANT TO GIVE OUT WHAT THE
2 STATUS IS WITH -- FOR OUTSTANDING DOCUMENTS, BECAUSE THAT
3 WILL BE IMPACTED BY THIS PROCESS.

4 CHAIRMAN PENNINGTON: OKAY.

5 MR. SCHIAVO: THERE ARE CURRENTLY APPROXIMATELY 20
6 DOCUMENTS OUTSTANDING BY 12 DIFFERENT JURISDICTIONS. AND WE
7 HAVE SENT, BASED ON THE ORIGINAL DIRECTION, APPROXIMATELY A
8 DOZEN -- I THINK IT'S 14 60-DAY LETTERS OUT TO JURISDICTIONS
9 THAT THEY MUST COMPLY WITHIN THOSE 60 DAYS OR WE BRING THEM
10 FORWARD FOR COMPLIANCE. I JUST WANTED TO ENTER THAT
11 INFORMATION.

12 MEMBER FRAZEE: HOW MANY OF THOSE DOCUMENTS ARE
13 COUNTYWIDE SITING ELEMENTS?

14 MR. SCHIAVO: THERE'S NINE OUTSTANDING SITING
15 ELEMENTS. FIVE HHWES, HOUSEHOLD HAZARDOUS WASTE ELEMENTS,
16 AND SEVEN SUMMARY PLANS.

17 CHAIRMAN PENNINGTON: OKAY. WE HAVE A MOTION BY
18 MR. JONES TO ADOPT RESOLUTION 99-17, TO APPROVE THE REVISED
19 COMPLIANCE SCHEDULE FOR THE SUBMISSION OF THE COUNTYWIDE
20 SITING ELEMENT, WITH A NEW DUE DATE OF JUNE 15TH, 1999, FOR
21 INYO COUNTY, WITH THE ADDITIONAL AMENDMENT THAT IF THEY DO
22 NOT MEET THIS DEADLINE THAT WE HOLD A HEARING WITHIN 60 DAYS
23 TO CONSIDER --

24 MEMBER ROBERTI: -- A NEGATIVE DECLARATION PROCESS

1 --

2 CHAIRMAN PENNINGTON: RIGHT.

3 MEMBER JONES: AND A NEG DEC.

4 CHAIRMAN PENNINGTON: SO, THIS WAS
5 SECONDED BY SENATOR ROBERTI. ANY FURTHER DISCUSSION?

6 MEMBER EATON: IS THIS CONSIDERED, BECAUSE OF THE
7 RESOURCE EXTRACTION, A WATERED-DOWN RESOLUTION? OKAY.

8 CHAIRMAN PENNINGTON: WOULD THE SECRETARY CALL THE
9 ROLL, PLEASE?

10 THE SECRETARY: BOARD MEMBER EATON?

11 MEMBER EATON: AYE.

12 THE SECRETARY: FRAZEE?

13 MEMBER FRAZEE: AYE.

14 THE SECRETARY: JONES?

15 MEMBER JONES: AYE.

16 THE SECRETARY: ROBERTI?

17 MEMBER ROBERTI: AYE.

18 THE SECRETARY: CHAIRMAN PENNINGTON?

19 CHAIRMAN PENNINGTON: AYE.

20 THE MOTION CARRIES.

21 WE'LL ADJOURN FOR LUNCH, RETURN AT 1:45.

22 MR. HAMILTON: THANK YOU VERY MUCH.

23 (WHEREUPON, THE LUNCHEON RECESS WAS TAKEN.)

24

CALIFORNIA SHORTHAND REPORTING

1 AFTERNOON SESSION

2 - - - -

3 CHAIRMAN PENNINGTON: WE'LL START WITH SENATOR
4 ROBERTI, DO YOU HAVE ANY *EX PARTES*?

5 MEMBER ROBERTI: NO, I DO NOT.

6 CHAIRMAN PENNINGTON: OKAY. MR. FRAZEE?

7 MEMBER FRAZEE: NO, NONE FOR ME.

8 CHAIRMAN PENNINGTON: MR. EATON?

9 MEMBER EATON: NO.

10 CHAIRMAN PENNINGTON: MR. JONES, ANY *EX PARTES*?

11 MEMBER JONES: JUST A QUICK ONE WITH EVAN EDGAR ON
12 C&D REGS.

13 CHAIRMAN PENNINGTON: VERY GOOD. I HAVE NONE.

14 ITEM NO. 5: CONSIDERATION OF A REVISED SOLID WASTE
15 FACILITY PERMIT FOR FALLBROOK RECYCLING AND TRANSFER
16 FACILITY, SAN DIEGO COUNTY

17 CHAIRMAN PENNINGTON: SO NOW WE'LL MOVE TO ITEM
18 NO. 5, CONSIDERATION OF A REVISED SOLID WASTE FACILITY
19 PERMIT FOR FALLBROOK RECYCLING AND TRANSFER FACILITY, SAN
20 DIEGO COUNTY. JULIE NAUMAN.

21 MS. NAUMAN: THANK YOU, MR. CHAIRMAN. TAD IS GOING
22 TO DO THIS.

23 CHAIRMAN PENNINGTON: ALL RIGHT.

24 MR. GEBREHAWARIAT: GOOD AFTERNOON. THE FALLBROOK

1 RECYCLING AND TRANSFER FACILITY -- I'M SORRY, I AM TADESE
2 GEBREHAWARIAT, FROM THE PERMITTING AND INSPECTION BRANCH.

3 SO, STARTING OVER, THE FALLBROOK RECYCLING
4 AND TRANSFER FACILITY IS OWNED BY ETCO (PHON) DISPOSAL
5 CORPORATION. THE FACILITY IS OPERATED BY THE FALLBROOK
6 REFUSE SERVICES, WHICH IS A SUBSIDIARY OF ETCO.

7 THE PROPOSED PERMIT IS TO ALLOW THE
8 FOLLOWING: AN INCREASE IN THE MAXIMUM DAILY TONNAGE FROM
9 300 TO 400, AND AN INCREASE OF A DAILY LEVEL OF TRAFFIC AT
10 THE FACILITY FROM 134 TO 155 VEHICLES PER DAY.

11 BY WAY OF SUMMARY, STAFF AND THE LEA HAVE
12 DETERMINED THAT ALL THE REQUIREMENTS FOR THE PROPOSED
13 REVISED PERMIT HAVE BEEN MET.

14 AMONG OTHER THINGS, THE BOARD APPROVED THE
15 INTEGRATED WASTE MANAGEMENT PLAN FOR THE COUNTY OF SAN DIEGO
16 IN JUNE OF 1997. AND SINCE THIS FACILITY IS A TRANSFER
17 STATION WHICH IS NOT, AS A CONDITION OF ITS PERMIT, RACED TO
18 RECOVER FOR REUSE OR RECYCLE AT LEAST FIVE PERCENT OF THE
19 VOLUME WHICH THEY ARE RECEIVED, THE FACILITY IS NOT REQUIRED
20 TO COMPLY WITH THE PUBLIC RESOURCE CODE SECTION 50001, UNDER
21 THE PROVISIONS OF RACKED SECTION 50001(B).

22 TWO, THAT THE PROPOSED DESIGN AND OPERATION
23 OF THE FACILITY, AS DESCRIBED IN THE EXISTING REPORT OF
24 STATION INFORMATION, OR RSI, AND AMENDMENTS THERETO, WOULD

1 ALLOW FOR FACILITY OPERATION IN COMPLIANCE WITH THE STATE
2 MINIMUM STANDARDS FOR SOLID WASTE PROCESSING AND HANDLING.

3 AND, THAT CEQA HAS BEEN COMPLIED WITH.

4 IN CONCLUSION, THE STAFF RECOMMEND THAT THE
5 BOARD ADOPT SOLID WASTE FACILITY PERMIT DECISION NO. 99-31,
6 CONCURRING WITH THE ISSUANCE OF SOLID WASTE FACILITY PERMIT
7 NO. 37AA0923.

8 AND MS. ROBERTA RAFRANEER (PHON),
9 REPRESENTING THE LEA'S OFFICE, IS HERE TO ANSWER ANY
10 QUESTIONS THAT THE BOARD MEMBERS MAY HAVE. AND THIS
11 CONCLUDES MY PRESENTATION.

12 MEMBER ROBERTI: MR. CHAIRMAN?

13 CHAIRMAN PENNINGTON: SENATOR ROBERTI.

14 MEMBER ROBERTI: IT STRIKES ME THAT THIS IS A
15 FAIRLY *PRO FORMA* REQUEST, SO I WOULD LIKE TO MOVE RESOLUTION
16 1999-31.

17 CHAIRMAN PENNINGTON: OKAY. AND MR. FRAZEE?

18 MEMBER FRAZEE: MR. CHAIRMAN, I WOULD SECOND THAT,
19 WITH A COUPLE OF COMMENTS.

20 I VISITED THIS FACILITY TWICE, ONCE PRIOR TO
21 ITS RECONSTRUCTION, AND THEN SINCE IT'S BEEN OPERATIONAL,
22 AND IT'S A FIRST CLASS FACILITY. AND, UNLIKE SO MANY
23 OTHERS, THE PEOPLE IN THE COMMUNITY LIKE IT, AND THERE HAVE
24 BEEN VIRTUALLY NO OPPOSITION TO ANY OF THE CHANGES THAT HAVE

1 TAKEN PLACE AT THIS FACILITY.

2 CHAIRMAN PENNINGTON: VERY GOOD. IT'S BEEN MOVED
3 BY SENATOR ROBERTI, AND SECONDED BY MR. FRAZEE, THE ADOPTION
4 OF RESOLUTION 1999-31.

5 IF THERE IS NO FURTHER DISCUSSION, WILL THE
6 SECRETARY CALL THE ROLL, PLEASE?

7 THE SECRETARY: BOARD MEMBER EATON?

8 MEMBER EATON: AYE.

9 THE SECRETARY: FRAZEE?

10 MEMBER FRAZEE: AYE.

11 THE SECRETARY: JONES?

12 MEMBER JONES: AYE.

13 THE SECRETARY: ROBERTI?

14 MEMBER ROBERTI: AYE.

15 THE SECRETARY: CHAIRMAN PENNINGTON?

16 CHAIRMAN PENNINGTON: AYE.

17 THE MOTION CARRIES.

18 ITEM NO. 6: CONSIDERATION OF ADOPTION OF A NEGATIVE
19 DECLARATION AND CONSIDERATION OF A NEW MAJOR WASTE TIRE
20 FACILITY PERMIT FOR THE CRM COMPANY, LLC, LOS ANGELES COUNTY

21 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM 6,
22 CONSIDERATION OF THE ADOPTION OF THE NEGATIVE DECLARATION
23 AND CONSIDERATION OF A NEW MAJOR WASTE TIRE FACILITY PERMIT
24 FOR THE CRM COMPANY, LLC, IN LOS ANGELES COUNTY. JULIE

1 NAUMAN.

2 MS. NAUMAN: THANK YOU. MR. CHAIRMAN AND MEMBERS,
3 JULIE NAUMAN, DEPUTY DIRECTOR OF PERMITTING AND ENFORCEMENT
4 DIVISION. THIS ITEM, AND THE ITEM THAT FOLLOWS, NO. 7, BOTH
5 DEAL WITH TIRE FACILITIES.

6 AND JUST, AGAIN, AS A LITTLE BIT OF
7 BACKGROUND, AT YOUR JANUARY, 1998, MEETING THE BOARD
8 APPROVED EMERGENCY TIRE REGULATIONS, REMOVING A NUMBER OF
9 EXCLUSIONS FROM THE REGULATIONS.

10 ON JUNE 16TH OF 1998, THE OFFICE OF
11 ADMINISTRATIVE LAW APPROVED THE EMERGENCY REGULATIONS WHICH
12 DID TWO THINGS, REMOVED TWO NON-STATUTORY EXCLUSIONS FOR
13 WASTE TIRE FACILITIES, AND CLARIFIED AN EXISTING STATUTORY
14 EXCLUSION.

15 THE REGULATORY CHANGE WAS THEN FILED WITH THE
16 OFFICE OF THE SECRETARY OF STATE, AND BECAME EFFECTIVE ON
17 JUNE THE 16TH OF LAST YEAR. THE EXCLUSIONS HELD BY
18 OPERATORS AT THOSE WASTE TIRE FACILITIES AFFECTED BY THE
19 REGULATORY CHANGES WERE REVOKED, EFFECTIVE ON THAT DATE.
20 OPERATORS OF THOSE AFFECTED FACILITIES ARE NOW SUBJECT TO
21 WASTE TIRE FACILITY PERMIT REQUIREMENTS AND WASTE TIRE
22 STORAGE AND DISPOSAL STANDARDS.

23 NOW, THE TWO SITES THAT YOU HAVE BEFORE YOU
24 TODAY IN ITEM 6 AND 7 -- ONE IS A NEW FACILITY, AND THAT'S

1 ITEM NO. 6, AND ONE IS A REVISED PERMIT TO INCREASE
2 CAPACITY, ITEM NO. 7. BOTH OF THESE ARE CRUMB RUBBER
3 (PHONS.) OPERATIONS AND ARE SUBJECT TO THE NEW REGULATIONS.

4 WITH THAT, I'LL TURN IT OVER TO TERRY SMITH.

5 MR. SMITH: MR. CHAIRMAN, BOARD MEMBERS, I WOULD
6 LIKE TO FIRST POINT OUT THAT THERE'S AN ERROR IN THE AGENDA
7 ITEM IN THE -- THROUGHOUT THE AGENDA ITEM AND THE PERMIT AND
8 RESOLUTION. THERE'S AN ADDRESS ERROR, IT SAYS 15880 AND IT
9 SHOULD BE 15800 SOUTH AVALON BOULEVARD.

10 THE CRM COMPANY INTENDS TO PROCESS WHOLE
11 WASTE TIRES INTO CRUMB RUBBER. THE PROPOSED PERMIT WILL
12 ALLOW UP TO 80,000 WASTE TIRES, OR TIRE EQUIVALENTS, TO BE
13 STORED ON SITE. DOCUMENTATION ACCOMPANYING THE PERMIT
14 APPLICATION INDICATES THAT CRM'S CRUMB RUBBER MANUFACTURING
15 EQUIPMENT WILL BE ABLE TO PROCESS UP TO 500 WASTE TIRES PER
16 HOUR, THAT'S 4,000 WASTE TIRES IN AN EIGHT-HOUR SHIFT. I
17 MIGHT ADD THAT I VISITED THE SITE BACK IN OCTOBER, AND THE
18 EQUIPMENT THERE IS QUITE IMPRESSIVE.

19 THE PROPOSED PROJECT IS LOCATED IN AN AREA
20 ZONED FOR HEAVY MANUFACTURING, SO LOCAL APPROVALS DID NOT
21 TRIGGER CEQA OR AN ENVIRONMENTAL REVIEW.

22 APPROVAL OF AN ISSUANCE OF A WASTE TIRE
23 FACILITY PERMIT IS A DISCRETIONARY ACTION, AND IS CONSIDERED
24 A PROJECT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

1 THE BOARD ASSUMED THE ROLE OF LEAD AGENCY AND
2 PREPARED AN ENVIRONMENTAL DOCUMENT FOR THE PROPOSED PROJECT
3 AS IT RELATES TO THE STORAGE OF WASTE TIRES.

4 THE BOARD PREPARED A MITIGATED NEGATIVE
5 DECLARATION, WHICH INCLUDES AN ANALYSIS OF THE PROPOSED
6 PROJECT. AS REQUIRED BY CEQA, THE NEGATIVE DEC IDENTIFIED
7 THE PROPOSED PROJECT'S POTENTIAL SIGNIFICANT ENVIRONMENTAL
8 IMPACTS AND PROVIDED MITIGATION MEASURES TO REDUCE THOSE
9 IMPACTS TO LESS THAN SIGNIFICANT LEVELS.

10 THE DOCUMENTATION WAS CIRCULATED THROUGH THE
11 STATE CLEARINGHOUSE FOR AGENCY REVIEW. A PUBLIC NOTICE WAS
12 PLACED IN THE *LOS ANGELES TIMES* AND ON THE INTERNET. THE
13 PUBLIC REVIEW PERIOD EXTENDED FROM DECEMBER 1ST THROUGH
14 DECEMBER 31ST OF 1998, AND NO COMMENTS WERE RECEIVED DURING
15 THE PUBLIC REVIEW PERIOD.

16 BEFORE THE WASTE TIRE FACILITY PERMIT CAN BE
17 ISSUED THE BOARD MUST CONSIDER AND ADOPT THE NEGATIVE DEC.
18 A COPY OF THE NEGATIVE DEC IS INCLUDED IN THIS ITEM AS
19 ATTACHMENT NO. 4. THE NEGATIVE DEC IS NOW BEFORE THE BOARD
20 FOR CONSIDERATION AND ADOPTION.

21 BOARD STAFF HAS DETERMINED THAT ALL THE OTHER
22 STATE AND LOCAL REQUIREMENTS FOR THIS PROPOSED PERMIT HAVE
23 BEEN MET. THE PROJECT'S DESIGN AND PROPOSED OPERATIONS ARE
24 CONSISTENT WITH STATE STANDARDS, AND THE APPLICABLE LOCAL

1 REQUIREMENTS HAVE BEEN MET.

2 HOWEVER, THERE IS ONE ISSUE THAT SHOULD
3 PROBABLY BE MENTIONED AT THIS TIME, AND THAT'S AN
4 ENFORCEMENT ISSUE. ON JANUARY THE 8TH, 1999, ENFORCEMENT
5 STAFF OF THE FACILITIES OPERATION BRANCH INSPECTED THE CRM
6 FACILITY AND FOUND THE OPERATOR IN VIOLATION OF DIVISION 30
7 OF THE PUBLIC RESOURCES CODE SECTION 42834, AND TITLE 14 OF
8 THE CALIFORNIA CODE OF REGULATIONS, SECTION 18420(A),
9 OPERATING WITHOUT A PERMIT. THERE WERE 5,000 TIRES ON SITE.

10 IN LIEU OF ENFORCEMENT ACTIONS BOARD STAFF HAS ORDERED THE
11 OPERATOR TO IMMEDIATELY CEASE ACCEPTANCE OF ANY WASTE TIRES
12 UNTIL THE WASTE TIRE FACILITY PERMIT HAS BEEN OBTAINED.

13 FURTHERMORE, MR. BARRY TAKALLOU, PRESIDENT OF
14 THE CRM COMPANY, HAS STIPULATED TO A \$5,000 FINE TO BE PAID
15 IN FULL NO LATER THAN JANUARY 27TH, 1999. MR. TAKALLOU PAID
16 THAT FINE THIS MORNING.

17 IN CONCLUSION, STAFF RECOMMENDS THAT THE
18 BOARD ADOPT THE NEGATIVE DEC, DECISION NUMBER 99-24, AND
19 PERMIT DECISION NUMBER 9908, APPROVING THE ISSUANCE OF MAJOR
20 WASTE TIRE FACILITY PERMIT NO. 19 PIO A41.

21 MR. BARRY TAKALLOU AND MR. MIKE HARRINGTON,
22 REPRESENTING THE OPERATOR, ARE PRESENT AND AVAILABLE TO
23 ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

24 THIS CONCLUDES THE STAFF PRESENTATION.

1 CHAIRMAN PENNINGTON: THANK YOU.

2 QUESTIONS OF STAFF? SENATOR ROBERTI?

3 MEMBER ROBERTI: YES, MR. CHAIRMAN. I GUESS MY
4 ONE CONCERN IS THE EXTENT TO WHICH THE BOARD MIGHT BE LIABLE
5 IF WE ADOPT THE RESOLUTION AND A PROBLEM OF ANY SORT ARISES.
6 I'M TOLD THAT THE TRUST FUND DOES NOT EXTEND SUFFICIENTLY
7 TO COVER A FULL LIABILITY.

8 MR. SMITH: RIGHT NOW WE HAVE A TRUST FUND, OR A
9 BUILD-UP MECHANISM, IN PLACE, AND THE APPLICANT HAS MET THE
10 MINIMUM REQUIREMENTS OF THAT, WHICH IS TO DEPOSIT ONE-FIFTH
11 OF THE AMOUNT OF THE TOTAL COST OF THE CLEANUP. HE HAS TO
12 HAVE THE TOTAL COST IN PLACE WITHIN FIVE YEARS.

13 MEMBER ROBERTI: WELL, IT CONCERNS ME A LITTLE BIT
14 BECAUSE THE APPLICANT HAS TO PUT IN 20 PERCENT OF THE TOTAL
15 COST OF THE CLEANUP. BUT THE APPLICANT, IT APPEARS, DOES
16 NOT HAVE A SPOTLESS RECORD. SIMPLY BECAUSE -- DIDN'T THE
17 APPLICANT TAKE IN MORE TIRES THAN HE'S ALLOWED?

18 SO, SHOULDN'T THE BOARD TAKE THAT INTO
19 CONSIDERATION? OR, CAN THE BOARD -- MAYBE A BETTER WORD IS,
20 CAN THE BOARD TAKE THAT INTO CONSIDERATION IN WHAT WE DO OR
21 WHAT CONDITIONS WE PLACE, IF WE CAN PLACE CONDITIONS,
22 BECAUSE TAKING IN TIRES THAT YOU WEREN'T ALLOWED TO TAKE IN
23 SEEMS TO INDICATE THAT THE APPLICANT AT SOME POINT, AT SOME
24 JUNCTURE, WAS PLAYING FAST AND LOOSE WITH PUBLIC LIABILITY?

1 HIS OWN OR SOMEBODY ELSE'S? AND --

2 CHAIRMAN PENNINGTON: MS. TOBIAS, CAN YOU SHED --

3 MS. TOBIAS: CAN I READ THAT MEMO THAT WE HAVE
4 THAT I HAVE NOT SEEN YET THAT WENT TO STAFF? SO, IF YOU'VE
5 GOT ANY OTHER QUESTIONS, CAN I HAVE JUST A MOMENT TO READ
6 THIS?

7 CHAIRMAN PENNINGTON: SURE.

8 MS. TOBIAS: THANK YOU.

9 CHAIRMAN PENNINGTON: AND SENATOR ROBERTI IS
10 CORRECT IN THAT, AS I UNDERSTAND IT, YOU GET FIVE YEARS TO
11 BUILD THAT UP. BUT YOU COULD FILL THE FACILITY WITH TIRES
12 AND NOT ACTUALLY HAVE THE TRUST FUND COVERING --

13 MR. SMITH: RIGHT.

14 CHAIRMAN PENNINGTON: -- AND THAT APPLIES, OF
15 COURSE, TO ALL OF THEM --

16 (THE PARTIES SIMULTANEOUSLY SPEAK.)

17 CHAIRMAN PENNINGTON: -- AT THIS POINT.

18 MR. SMITH: I UNDERSTAND THAT. BUT IN THIS CASE -
19 -

20 CHAIRMAN PENNINGTON: RIGHT.

21 MR. SMITH: -- AND I DON'T KNOW WHAT THE
22 MOTIVATION WAS, I'M SUSPICIOUS AS TO WHY THE TIRES WERE
23 BEING IMPROPERLY COLLECTED.

24 CHAIRMAN PENNINGTON: MAYBE YOU CAN ADDRESS THAT,

1 MR. HARRINGTON?

2 MR. HARRINGTON: GOOD AFTERNOON, BOARD, MY NAME IS
3 MIKE HARRINGTON, I'M WITH CRM CORPORATION. SENATOR ROBERTI,
4 LET ME RESPOND TO YOUR CONCERNS. IT IS CORRECT, WE WERE IN
5 VIOLATION OF THOSE STANDARDS. BUT MITIGATING CIRCUMSTANCES
6 ARE ALWAYS, I THINK, WORTH CONSIDERATION.

7 WHAT WE WERE DOING IS -- AS STAFF HAS SAID,
8 THEY WERE OUT IN NOVEMBER AND SAW -- OR, OCTOBER AND SAW THE
9 EQUIPMENT. QUITE EXTENSIVE, QUITE NEW, WITH WARRANTY
10 RUNNING.

11 AS PART OF OUR SETUP AND PART OF OUR
12 PRELIMINARY TO ACTUALLY OPERATING, QUOTE/UNQUOTE, "IN FULL
13 PRODUCTION" WE NEEDED TO, AT THE SUGGESTION OF OUR
14 CONSULTANTS AND ENGINEER, RUN ENOUGH MATERIAL THROUGH THE
15 SYSTEM TO MAKE SURE THAT IT WAS OPERATIONAL, TO MAKE SURE
16 THAT WE DIDN'T HAVE ANY WARRANTY CLAIMS OR WARRANTY
17 PROBLEMS.

18 WE WERE TRYING TO STAY WITHIN THE 499-TIRE
19 CAP MINIMUM, AND BROUGHT IN TIRES IN THE MORNING TO RUN,
20 AGAIN TO ENSURE THAT THE -- ONLY THE EQUIPMENT WAS
21 OPERATIONAL, AND EDISON HAD A POWER OUTAGE. WELL, THE TIRES
22 WERE COMING IN, EDISON WAS THERE, AND IF -- I DON'T KNOW IF
23 THE INSPECTOR IS HERE, OR IF IT'S IN HIS REPORT, YOU'LL FIND
24 OUT THAT THE POWER WAS OUT THAT ENTIRE DAY.

1 ALL OF THOSE TIRES WERE CONSUMED AND ACTUALLY
2 TURNED INTO CRUMB RUBBER WITHIN 24 HOURS, NO ADDITIONAL
3 TIRES OUTSIDE THE REGULATIONS HAVE BEEN TAKEN. IT WAS A
4 KIND OF A ONE-TIME --

5 MEMBER JONES: SO DOES THE STAFF CONCUR THAT THE
6 EXCESS TIRES THAT WERE COLLECTED, IT WAS PURSUANT TO THE
7 SHORTAGE, A POWER SHORTAGE THE EDISON COMPANY INFLICTED ON
8 THE APPLICANT?

9 MR. HARRINGTON: WE CAN SAY THAT THE POWER WAS OUT
10 WHEN THE INSPECTOR WAS THERE. WE DON'T USUALLY RUN IN THE
11 DARK.

12 CHAIRMAN PENNINGTON: OKAY. DID YOU WANT TO MAKE
13 A COMMENT, MS. TOBIAS?

14 MS. TOBIAS: WELL, LET ME GIVE THE BOARD, FIRST OF
15 ALL, SOME SENSE OF WHAT THE REGULATIONS SAY, AND THEN WHAT
16 ROOM TO MOVE THERE IS.

17 AS I UNDERSTAND IT, THE REQUIREMENT FOR THE
18 TRUST FUND WAS TAKEN OUT OF THE COPY OF THE LANGUAGE FOR THE
19 SOLID WASTE SIDE OF THE HOUSE, IF YOU WILL. SO, IT
20 BASICALLY DOES SAY THAT THEY SHALL -- MAY ESTABLISH A TRUST
21 FUND. AND THEN IT SAYS "PAYMENTS INTO THE TRUST FUND SHALL
22 BE MADE ANNUAL BY THE OPERATOR OVER A FIVE-YEAR PERIOD."

23 HOWEVER, AT THE BEGINNING OF THE ARTICLE, IN
24 18425 PERMIT ISSUANCE, IT DOES SAY THAT UPON THE APPLICANT'S

1 COMPLIANCE WITH THIS CHAPTER THE BOARD MAY MAKE FINDINGS AND
2 ISSUE THE PERMIT AS PROVIDED, AND THE PERMIT SHALL SPECIFY
3 THE CONDITIONS UNDER WHICH THE WASTE TIRE FACILITY SHALL
4 COMPLY WITH THIS CHAPTER.

5 SO, I THINK THAT IF THE BOARD FEELS THAT --
6 BASED EITHER ON A PREVIOUS RECORD THAT THERE'S A REASON TO
7 DO THAT, THAT THERE'S THE LEGISLATIVE ABILITY TO GO AHEAD
8 AND CHANGE HOW THE TRUST FUND NORMALLY OPERATES.

9 MEMBER ROBERTI: INCLUDING THE AMOUNT THAT COULD
10 BE --

11 MS. TOBIAS: CORRECT.

12 MEMBER ROBERTI: -- EXPECTED OF THEM TO PUT DOWN.

13 MS. TOBIAS: RIGHT. RIGHT.

14 AS WELL AS THE TIMETABLE. I THINK THAT THE
15 WAY THAT THIS COULD BE INTERPRETED UNDER 18474 OF THE TRUST
16 FUND IS THAT -- AND THIS IS PROBABLY KIND OF A MINIMUM
17 REQUIREMENT, IF THE BOARD WISHES TO DO SOMETHING DIFFERENT
18 THAT THEY COULD GO AHEAD AND DO THAT -- THEN IT'S THE
19 APPLICANT'S CHOICE AS TO WHETHER THEY WANT TO GO AHEAD WITH
20 THE BOARD'S CONDITION OR NOT.

21 MR. HARRINGTON: LET ME SAY, WITH A PAYMENT OF A
22 \$2 MILLION FACILITY, AND OVER SEVEN FIGURES IN EQUIPMENT,
23 YES, WE WILL OBVIOUSLY COMPLY WITH WHATEVER THE BOARD WISHES
24 US TO DO, AS FAR AS MEETING ANY CRITERIA THAT YOU WISH TO

1 COME UP WITH.

2 HOWEVER, AS WITH AN EARLIER SESSION TODAY,
3 THIS HAS NOT HISTORICALLY BEEN THE BOARD'S POSITION, EVEN
4 WITH APPLICANTS WHO HAVE BEEN OUT OF COMPLIANCE ACCEPTING
5 TIRES DURING A PERMIT APPLICATION TIME.

6 AGAIN, THIS WAS A ONE-TIME ABERRATION, IF YOU
7 WILL, AND WE LOOK FORWARD TO BEING A FRIEND AND HELP TO THE
8 BOARD IN RECYCLING A WASTE TIRE PROBLEM THAT IS FACED IN
9 CALIFORNIA.

10 MEMBER ROBERTI: YEAH, I WISH I HAD MORE
11 INFORMATION AS TO WHERE THE FAULT LIES WITH THE ACCUMULATION
12 OF THE TIRES. THE FACT IS, YOU ARE PAYING A FINE, WHICH IS
13 --

14 MR. HARRINGTON: SENATOR ROBERTI, ABSOLUTELY, THE
15 FAULT LIES WITH US. WE, IN AN EFFORT TO ENSURE THAT THE
16 EQUIPMENT WOULD RUN PROPERLY, HAD TO, AT THE BEHEST OF OUR
17 CONSULTANTS, RUN THE EQUIPMENT. WE WERE TRYING TO BRING
18 TIRES IN, IN A MANNER THAT WOULD STAY WITH -- UNDER THE 499
19 CAP, AND BRING THEM IN ON A SCHEDULED BASIS. WE HAD THEM
20 SCHEDULED IN. THE POWER, PER EDISON -- I MEAN, IT WAS OUT.

21 WE WOULD HAVE STAYED WELL UNDER 500 TIRES AT ANY GIVEN
22 POINT, ON THE GROUND, HAD THE POWER NOT GONE OUT. IT'S AN
23 UNFORTUNATE SITUATION FOR US.

24 I DON'T MEAN TO MINIMIZE OUR RESPONSIBILITY

1 IN IT. BUT, WE CERTAINLY HAD NO INTENT TO DECEIVE, DEFRAUD,
2 OR MAKE A FLAGRANT STATEMENT OF BEING IN OPERATION PRIOR TO
3 THE PERMIT, AS EVIDENCED BY OUR OPERATION TODAY. WE ARE
4 STILL WAITING FOR THIS BOARD'S APPROVAL, AND HAVE A LOT OF
5 CAPITAL TIED UP.

6 MEMBER ROBERTI: I WILL GRANT -- NOT FOR JUST
7 PURPOSES OF ARGUMENT, I BASICALLY WILL GRANT WHAT YOU SAY,
8 BUT YOU STILL TOOK A RISK IN THE ACCUMULATION.

9 AND I TEND TO THINK THAT THE 20 PERCENT
10 SHOULD BE VIEWED -- I MEAN, IT'S SUCH A LOW FIGURE, THAT IT
11 HAS TO BE VIEWED AS A TOTAL COMPLIANCE, GOOD GUY -- I'M NOT
12 SAYING THAT YOU'RE NOT, BUT JUST -- STELLAR RECORD, AND THEN
13 IT'S LIKE YOU GET YOUR....

14 YOU KNOW, YOU GET THE BEST AUTO INSURANCE
15 WHEN YOU HAVE THE PERFECT RECORD. IT DOESN'T MEAN THAT THE
16 PERSON THAT HAS ONE MOVING VIOLATION IS A BAD PERSON, OR
17 SHOULD BE DENIED AUTO INSURANCE, BUT IT MEANS THAT YOU'RE
18 GOING TO HAVE TO PAY A HIGHER RATE BECAUSE YOU'RE A RISKIER
19 PERSON.

20 AND THIS 20 PERCENT IS AWFULLY LOW, AND IT
21 DOES EXPOSE US TO LIABILITY IF THE OPERATOR IS NOT CAUTIOUS.

22 AND I THINK IT'S SAFE TO SAY THAT YOU WEREN'T CAUTIOUS.
23 NOT A BAD GUY. BUT, I MEAN, LIKE THE INSURANCE -- LIKE THE
24 MOTOR VEHICLE OPERATOR WHO HAS ONE MOVING VIOLATION, YOU

1 SHOULDN'T HAVE THE 20 PERCENT RATE, YOU SHOULD COME UP WITH
2 SOMETHING HIGHER.

3 AND, I THINK YOUR CASE IS A LITTLE BIT
4 DIFFERENT, IN MY MIND, TO THE ONES WHERE WE DID GRANT
5 SOMETHING THAT WAS A -- AMOUNTS TO A WAIVER, BECAUSE IN
6 THOSE CIRCUMSTANCES -- AND MAYBE STAFF CAN TELL ME IF I'M
7 WRONG, I'M WILLING TO BE TOLD -- IN THOSE CASES THE
8 SITUATION WAS ONE WHERE THERE WAS ABSOLUTELY TESTIMONY OF
9 ANY HAZARD WHATSOEVER. BUT YOUR SITUATION DOES INDICATE
10 POTENTIAL LIABILITY, IF YOU VIEW US AS AN INSURER. AND YOU
11 DON'T HAVE THAT PERFECT RECORD WHERE YOU SHOULD GET THE VERY
12 BEST RATE, IN MY HUMBLE ESTIMATION.

13 MS. NAUMAN: WELL, SENATOR ROBERTI, IF I COULD
14 JUST ALSO ADD, THE TRUST FUND IS ONE OF SEVERAL FORMS OF
15 FINANCIAL ASSURANCE THAT IS AVAILABLE TO US. AND I ASKED
16 LEGAL COUNSEL IF THEY WOULD OPINE, OR GIVE US SOME GUIDANCE,
17 AS TO WHETHER OR NOT THE BOARD HAS ANY DISCRETION TO
18 PRECLUDE AN OPERATOR FROM EXERCISING THE OPTION TO UTILIZE A
19 TRUST FUND AND, INSTEAD, DIRECT THEM TO ONE OF THE OTHER
20 FORMS OF FINANCIAL ASSURANCE WHICH DOESN'T HAVE THE SAME
21 TYPE OF RISK ASSOCIATED WITH IT AS THE TRUST FUND DOES.

22 MS. TOBIAS: IN SECTION 18473, WHICH TALKS
23 ABOUT ACCEPTABLE MECHANISMS, AND A COMBINATION OF THOSE
24 MECHANISMS, IT SAYS THAT THE OPERATOR SHALL USE ANY ONE, OR

1 ANY COMBINATION OF THE MECHANISMS SPECIFIED, AND THEN IT
2 LISTS TRUST FUND, SURETY BOND, LETTER OF CREDIT, GOVERNMENT
3 SECURITIES, OR ENTERPRISE FUND.

4 I THINK THAT IT IS, AGAIN, WITHIN THE
5 LEGISLATIVE ABILITY OF THE BOARD TO BASICALLY SAY THAT, DUE
6 TO PAST ACTS, OR PREVIOUS RESPONSIBILITIES THAT HAVE BEEN
7 CARRIED OUT IN A MANNER THAT'S NOT SATISFACTORY TO THE
8 BOARD, THAT ONE OF THESE MAY NOT BE SUFFICIENT TO MAKE THE
9 BOARD COMFORTABLE, THAT FINANCIAL ASSURANCES ARE ACTUALLY IN
10 PLACE.

11 I DO WANT TO SAY THAT I THINK -- I DON'T WANT
12 TO SAY THAT'S A STRETCH, BUT I DO THINK IT'S OUTSIDE OF WHAT
13 THE BOARD HAS DONE BEFORE. BUT I'M COMFORTABLE WITH THAT,
14 AT THIS TIME, TO BASICALLY SAY THAT THE BOARD WOULD LIKE
15 SOME OTHER DEVICE THAT WOULD GO FURTHER, IN TERMS OF
16 SATISFYING THAT. UNLESS THEY WANT TO USE THE TRUST FUND,
17 AND FUND IT TO THE TOTAL NUMBER OF TIRES. SO, IT SEEMS TO
18 ME THAT YOU COULD GO EITHER WAY ON THAT.

19 MEMBER ROBERTI: MR. CHAIRMAN, IF I COULD JUST ADD
20 TO THAT?

21 CHAIRMAN PENNINGTON: YES.

22 MEMBER ROBERTI: IT'S NOT MY INTENTION TO DRAIN
23 THE APPLICANT HERE. BUT, IT IS MY INTENTION TO MAKE A POINT
24 THAT WE SHOULDN'T GIVE THE VERY BEST RATE TO SOMEBODY WHO

1 DOESN'T HAVE A GOOD RECORD.

2 NOW, I WISH I WAS MORE CONVERSANT WITH ALL
3 THE POSSIBILITIES -- I THINK I NEED SOME HELP FROM STAFF ON
4 THIS -- AS TO WHAT OTHER OPTION IS AVAILABLE. BUT, I THINK
5 WE HAVE TO LOOK AT IT FOR SOME OTHER OPTION. BECAUSE, JUST
6 TO REFER ONE MORE TIME, TO NOT BELABOR IT TOO MUCH, TO THE
7 AUTO INSURANCE SITUATION, THAT'S THE BEST RATE, 20 PERCENT
8 IS BEST RATE FOR SOMEBODY WHO HAS ABSOLUTELY NO PROBLEM.
9 IT'S JUST TOO GOOD A DEAL, AND THAT'S NOT WHAT WE'RE DEALING
10 WITH HERE.

11 (THE PARTIES SIMULTANEOUSLY SPEAK.)

12 MEMBER JONES: MR. CHAIRMAN?

13 CHAIRMAN PENNINGTON: MR. JONES, AND THEN MR.
14 FRAZEE.

15 MEMBER JONES: I AGREE WITH THE SENATOR. I MEAN,
16 THIS FIVE-YEAR PLAN HAS BEEN A LITTLE BOTHERSOME TO ME ON
17 THESE THINGS, BUT I THINK WE HAVE SOME OPTIONS, TOO, THAT WE
18 COULD THINK ABOUT.

19 AND ONE WOULD BE, IF YOU'RE GOING TO FUND THE
20 TRUST FUND AT A 20 PERCENT CLIP, THEN MAYBE WE NEED TO LOOK
21 AT THE 80,000 TIRES -- WHICH IS OUR EXPOSURE, THAT'S THE
22 RISK TO THE STATE OF CALIFORNIA -- AND PERMIT CONDITION THE
23 AMOUNT OF ALLOWABLE TIRES ON SITE TO COINCIDE WITH THE
24 FUNDING LEVEL OF THE TRUST FUND.

1 IF, IN FACT, YOU FUNDED THE 20 PERCENT, THEN
2 YOU'RE ALLOWED 16,000 TIRES ON SITE, WHEN YOU FUND TO 40
3 PERCENT YOU'RE ALLOWED 32,000 TIRES. THAT WOULD KEEP THE
4 RISK IN BALANCE WITH THE TRUST FUND, AND WOULD REQUIRE ONLY
5 MATERIALS MANAGEMENT, ON YOUR SIDE, WITHOUT THE BURDEN OF AN
6 ADDED FINANCIAL BURDEN. IT DOES REQUIRE MATERIALS
7 MANAGEMENT. BUT, IT MINIMIZES THE RISK TO THE STATE OF
8 CALIFORNIA. AND IT SEEMS LIKE AN OPTION THAT'S CONSISTENT
9 WITH BUSINESS.

10 CHAIRMAN PENNINGTON: MR. FRAZEE?

11 MEMBER FRAZEE: YES. AFTER HEARING MR. JONES'
12 STATEMENT, I THINK THAT I WOULD SIDE WITH THAT.

13 BUT, I DID WANT TO MAKE THE POINT THAT WE'RE
14 DEALING SOMEWHAT WITH THE PROVERBIAL APPLES AND ORANGES.
15 THE SITUATION HERE, THE CASE OF THE VIOLATION, THAT ON ONE
16 HAND, AND THE PERHAPS PERCEIVED INADEQUACY TRUST FUND ON THE
17 OTHER.

18 ONE OF THE MITIGATING CIRCUMSTANCES, I THINK,
19 ON THE VIOLATION CIRCUMSTANCE IS JUST, A FEW MONTHS AGO THEY
20 COULD HAVE HAD 5,000 TIRES ON THERE WITHOUT ANY KIND OF A
21 PERMIT AT ALL. IS THAT NOT CORRECT? UNTIL WE CHANGED THE
22 POLICY?

23 MR. SMITH: NO, THAT'S NOT CORRECT. THEY COULD
24 HAVE HAD 500 OR LESS TIRES --

1 (THE PARTIES SIMULTANEOUSLY SPEAK.)

2 MEMBER FRAZEE: -- DIDN'T WE HAVE THE EXEMPTION
3 FOR A RECYCLING FACILITY?

4 MR. SMITH: YES, BUT THEY WOULD HAVE TO APPLY FOR
5 IT, THEY WOULD HAVE TO APPLY FOR THE EXEMPTION, OR THE
6 EXCLUSION.

7 MR. HARRINGTON: FOR A MINOR WASTE TIRE FACILITY
8 PERMIT, WHICH REALLY, WE WOULD HAVE DONE, BUT WE WENT AHEAD
9 AND WENT THROUGH THE FINANCIAL RESPONSIBILITY TO GET THE
10 MAJOR.

11 TO GO BACK TO THE AUTO INSURANCE, ONE OF THE
12 THINGS THAT WE DID, AND KIND OF AN ACT OF CONTRITION, WAS TO
13 STIPULATE THE FINE AND TO PAY IT IMMEDIATELY, ON SOMETHING
14 THAT -- I THINK THE FINE MIGHT HAVE BEEN A LITTLE STEEP.
15 SO, I'M ASKING FOR THE TRAFFIC SCHOOL ROUTE ON THIS.

16 MEMBER ROBERTI: YEAH, BUT HERE'S THE POINT, TO
17 CARRY THE ANALOGY. NORMALLY, SEE, THERE'S TWO COPS, WHERE
18 YOU HAVE YOUR PUBLIC LIABILITY YOU HAVE TO GO TO TRAFFIC
19 SCHOOL, AND IF YOU'RE A REAL BAD BUY YOU HAVE TO SPEND A
20 NIGHT IN JAIL -- BUT, PROBABLY JUST TRAFFIC SCHOOL --

21 (THE PARTIES SIMULTANEOUSLY SPEAK.)

22 MR. HARRINGTON: WE WEREN'T DRINKING AT THE TIME.

23 MEMBER ROBERTI: BUT, THE INSURANCE CARRIER STILL
24 RESERVES HIS PENALTY FOR YOU, WHICH IS SOMETIMES THE WORST

1 PENALTY, AND IT HAS REALLY NOTHING TO DO WITH WHAT THE
2 PUBLIC LIABILITY IS.

3 UNFORTUNATELY, IN OUR SITUATION, I GUESS
4 YOU'VE GOT -- WITH BOTH THE INSURER AND THE TRAFFIC COP ARE
5 THE SAME. BUT, THEY'RE REALLY TWO SEPARATE -- I THINK
6 THEY'RE TWO SEPARATE ISSUES.

7 (THE PARTIES SIMULTANEOUSLY SPEAK.)

8 MS. TOBIAS: SENATOR ROBERTI, I THINK THIS IS
9 PROBABLY A GOOD TIME TO INTERJECT, AND -- IF WE'RE TALKING
10 ABOUT DIFFERENT LEVELS OF PUNISHMENT AND SANCTION.

11 I THINK THAT ONE OF THE THINGS THAT WOULD BE
12 IMPORTANT TO ADD HERE IS THAT ONE OF THE THINGS THAT'S
13 DRIVING STAFF'S INTEREST, IN TRYING TO MAKE SURE THAT WE
14 HAVE ADEQUATE FINANCIAL ASSURANCES ON THIS SITE, IS NOT
15 NECESSARILY THE FACT THAT THERE'S BEEN A VIOLATION OF
16 STARTING IN ON THIS SITE BEFORE THE PERMIT IS ISSUED, BUT
17 THAT SEVERAL OF THE INDIVIDUALS WHO ARE INVOLVED WITH THIS
18 PARTICULAR CORPORATION ARE INDIVIDUALS WHO WERE INVOLVED
19 WITH A PREVIOUS CORPORATION WHO HAVE DEFAULTED ON A LOAN TO
20 THE BOARD. AND I THINK THAT THAT'S -- I NEEDED TO ADD THAT.

21 SO, IT'S NOT SO MUCH THE ISSUE OF THE TIRE PLACEMENT. SO -
22 -

23 MEMBER ROBERTI: THAT'S EVEN MORE CRITICAL.
24 THAT'S MORE CRITICAL.

1 MS. TOBIAS: SO I THINK -- AND PERHAPS, YOU KNOW,
2 OBVIOUSLY THE APPLICANTS SHOULD BE GIVEN AN OPPORTUNITY TO
3 ADDRESS THAT. BUT, I THINK THAT'S THE TRACK RECORD THAT
4 WE'RE REALLY TALKING ABOUT HERE, IS -- TO A CERTAIN EXTENT.

5 I WILL SAY THAT IT'S A DIFFERENT CORPORATION.
6 I'M NOT SAYING THAT NECESSARY, YOU KNOW, SOMEONE IS TARRED
7 WITH THAT BRUSH FOREVER, BUT THERE IS A PAST HISTORY HERE,
8 AND I THINK THAT'S WHAT NEEDS TO BE PUT OUT ON THE TABLE.

9 MR. HARRINGTON: THANK YOU, MS. TOBIAS, FOR
10 BRINGING THAT UP, I WAS WONDERING WHEN IT WAS GOING TO COME,
11 AND NONE OF THE PRINCIPALS OF CRM, WITH THE EXCEPTION OF A
12 CONSULTANT TO THE ESTABLISHMENT YOU'RE REFERRING TO ARE THE
13 SAME. THERE WAS A CONSULTANT TO THAT, THAT IS THE SAME,
14 WITH CRM.

15 I'D ALSO HAVE YOU -- POINT OUT, THAT ON YOUR
16 LOAN THAT DEFAULTED, WOULD YOU CARE TO TELL THE BOARD
17 EXACTLY HOW MUCH THE BOARD LOST AND WASN'T ABLE TO RECOVER
18 ON THE LOAN?

19 MS. TOBIAS: IF YOU KNOW THAT YOU CAN GO AHEAD, I
20 DON'T THINK I HAVE THOSE FIGURES --

21 MR. HARRINGTON: OKAY. THE BOARD -- THE AMOUNT
22 WAS ZERO. THE BOARD GOT ALL OF ITS MONEY BACK.

23 AND ALSO, WITH THE CITY IF INDUSTRY, WITH
24 TIGON (PHON), WHERE THEY THOUGHT BANKRUPTCY LOOMING, AND

1 EVERYONE WAS WONDERING, GEE, HOW DID 200,000 TIRES APPEAR
2 HERE, WHY DIDN'T WE DO THAT. THE BOARD MIGHT ALSO WANT TO
3 KNOW THAT THAT BANKRUPTCY, THE NUMBER OF TIRES LEFT ON SITE
4 WAS ZERO.

5 SO, IF PAST HISTORY IS ANY INDICATOR, SENATOR
6 ROBERTI, THAT SHOULD BE REALLY A DEFINING MOMENT FOR THE
7 BOARD. THEY GOT ALL THEIR MONEY BACK, THERE WERE NO TIRES
8 LEFT ON SITE.

9 MS. TOBIAS: MR. HARRINGTON, COUNSEL IS ALSO
10 ADVISING ME THAT IN THAT CASE, WE DID HIRE -- THAT
11 BANKRUPTCY WAS FILED, THAT IT WAS FILED IN ANOTHER STATE,
12 AND THAT WE WERE REQUIRED TO HIRE OUTSIDE COUNSEL IN THAT
13 STATE TO TAKE THIS THROUGH BANKRUPTCY.

14 IS THAT ACCURATE.

15 MR. HARRINGTON: YOU KNOW, YOU'RE ASKING ME TO
16 COMMENT ON A CORPORATION THAT I KNOW NOTHING ABOUT. AS A
17 MATTER OF FACT, IT WAS A KENTUCKY, I BELIEVE, CORPORATION, A
18 TOBACCO.... I'M NOT SURE.

19 MS. TOBIAS: OHIO, I THINK --

20 (THE PARTIES SIMULTANEOUSLY SPEAK.)

21 MR. HARRINGTON: HOPEFULLY, YOU WOULD HAVE BETTER
22 INFORMATION ON THAT THAN I WOULD HAVE. THEY DIDN'T OWE ME
23 ANY MONEY.

24 MEMBER FRAZEE: MR. CHAIRMAN?

1 CHAIRMAN PENNINGTON: MR. FRAZEE.

2 MEMBER FRAZEE: COULD I PURSUE SOMETHING, AS LONG
3 AS WE'RE DISCUSSING OTHER COMPANIES?

4 YOUR FORMER EMPLOYER, BAS, WHAT KIND OF A
5 TRUST ARRANGEMENT DID THIS BOARD IMPOSE UPON THEM?

6 MR. HARRINGTON: THE BAS --

7 MEMBER FRAZEE: THE 20 PERCENT ONE?

8 MR. HARRINGTON: ABSOLUTELY, THE 20 PERCENT ONE.
9 AND IN THAT ONE WE ALSO HAD A CEASE AND DESIST, AND A SMALL
10 PROBLEM WITH TIRES. JUST TO REMAIN OPERATIONAL THE COMPANY
11 CONTINUED TO TAKE TIRES IN AND RECYCLE THEM.

12 I HOPE THE BOARD, SOMEWHERE IN THIS,
13 REMEMBERS THAT WE'RE NOT IN THE BUSINESS OF STORING TIRES,
14 WE'RE IN THE BUSINESS OF RECYCLING TIRES TO CRUMB RUBBER,
15 AND ONE HELL OF A LOT OF CALIFORNIA WASTE TIRES WILL BE
16 RECYCLED INTO CRUMB RUBBER AND MARKETED.

17 THE SUGGESTION THAT SOMEHOW WE'RE, YOU KNOW,
18 IN THE BUSINESS OF STOCKPILING TIRES SEEMS A MISNOMER.
19 WE'RE IN THE BUSINESS OF RECYCLING TIRES. I MEAN, IF YOU
20 COME DOWN AND LOOK AT THE FACILITY, AND LOOK AT THE
21 EQUIPMENT, IT'S NOT CONDUCTIVE TO STORING TIRES, IT'S
22 CONDUCTIVE TO RECYCLING TIRES.

23 MEMBER FRAZEE: MR. HARRINGTON, I'M TRYING TO
24 HELP.

1 MR. HARRINGTON: THANK YOU.

2 MEMBER FRAZEE: IN SPITE OF WHAT IT MAY SOUND
3 LIKE.

4 THE POINT I'M TRYING TO MAKE IS THAT WE
5 IMPOSED A CERTAIN SET OF STANDARDS ON BAS, IE. THE 20
6 PERCENT FUNDING. AND I THINK THERE'S SOME DEGREE OF
7 UNFAIRNESS IF WE WERE TO CHANGE THAT AND IMPOSE A HIGHER
8 STANDARD ON A COMPETITOR.

9 MR. HARRINGTON: THANK YOU.

10 (THE PARTIES SIMULTANEOUSLY SPEAK.)

11 MEMBER ROBERTI: MR. HARRINGTON, FROM MY PURVIEW,
12 YOU'RE MAKING A VERY STRONG CASE THAT YOU SHOULD BE GRANTED
13 SOMETHING, BUT YOU HAVEN'T MADE THE CASE THAT YOU SHOULD BE
14 GRANTED THE BEST DEAL, IN MY MIND, ONE PERSON HERE SPEAKING.

15 AND UNFORTUNATELY, I'M NOT TOTALLY CONVERSANT WITH ALL THE
16 VARIOUS OPTIONS THAT WE COULD GRANT YOU THAT WOULD RATCHET
17 UP YOUR OBLIGATION SO YOU GET THE SECOND BEST DEAL.

18 BUT I REALLY DON'T THINK, WITH YOUR RECORD,
19 AND NOT THE WORST RECORD IN TOWN, BUT WITH YOUR RECORD OF
20 BOTH ACCUMULATION OF TIRES, FOR WHATEVER REASON, AND EVEN
21 MORE IMPORTANT, THE DEFAULT, THAT WE SHOULD GIVE YOU THE
22 BEST DEAL.

23 MR. HARRINGTON: WE'RE A DIFFERENT CORPORATION,
24 DIFFERENT PEOPLE, DIFFERENT EVERYTHING.

1 MEMBER ROBERTI: WELL, I UNDERSTAND. I UNDERSTAND
2 YOUR POINT OF VIEW.

3 MR. HARRINGTON: NO, NO, IT ISN'T A POINT OF VIEW.
4 I MEAN, THEY ARE TRULY DIFFERENT PEOPLE, IT'S A DIFFERENT
5 OPERATION, IT'S -- THERE IS ONE PERSON THAT IS -- WAS WITH
6 THE PREVIOUS COMPANY, AND THAT IS WITH THE CURRENT COMPANY,
7 THAT'S IT.

8 MEMBER EATON: PERHAPS, I MEAN, WHY NOT -- ALL
9 FOUR HAVE SPOKEN, LET ME SEE IF I CAN'T PERHAPS MAYBE SHED -
10 - USING THE SAME ANALOGY, SINCE YOU'RE USING ABOUT, YOU
11 KNOW, DRIVING RECORD AND INSURANCE, PERHAPS MAYBE IF WE
12 FOLLOW A CONSISTENT LINE, AND WHAT WILL HAPPEN IS THAT WE
13 FOLLOW WHAT MR. JONES SAID, THAT FOR EACH TIRE ON THERE,
14 THERE'S AN EQUIVALENT LEVEL, AND THAT WE CONDITION IT AFTER
15 A CERTAIN PERIOD OF TIME, LIKE IN AUTO INSURANCE, IF YOU
16 HAVE A GOOD RECORD THEN WE CAN GO BACK TO A PERFORMANCE
17 LEVEL OF 20 OR 40 OR 60 PERCENT. YOU KNOW, KIND OF LIKE
18 YOU'VE HAD, YOU KNOW, ONE MARK ON YOUR RECORD, AND IF YOU
19 KEEP YOUR RECORD CLEAN FOR "X" AMOUNT OF TIME THEN GENERALLY
20 THE INSURANCE COMPANIES WILL LOOK AT IT AND SAY, OKAY, YOU
21 KNOW, IT WAS A ONE-TIME MISTAKE OR A TWO-TIME MISTAKE, YOUR
22 RATE GETS LOWERED.

23 AND IF THAT SEEMS TO BE A FAIR THING, IS WHAT
24 SENATOR ROBERTI'S TALKING ABOUT, THAT YOU'RE ASKING FOR

1 SOMETHING BUT YOU DON'T DESERVE IT, YOU DON'T DESERVE THE
2 BEST PRICE, YOU DON'T DESERVE THE WORST PRICE, BUT AT LEAST
3 FOR THE TIME BEING, YOU KNOW, YOU'VE GOT TO GET A COUPLE OF
4 MORE CARDS BEFORE YOU LEAVE GO.

5 MR. HARRINGTON: MR. EATON, COULD I ADDRESS THAT?

6 MEMBER EATON: SURE.

7 MR. HARRINGTON: COULD I THEN GO -- INSTEAD OF AN
8 INITIAL 20 PERCENT GO AHEAD AND ACCELERATE THE FIRST TWO
9 YEARS' WORTH OF PAYMENTS? AND IF IN THAT TIME THAT MY NEXT
10 PAYMENT IS DUE, IF THE BOARD FEELS THAT IT ALL IS -- SHOULD
11 BE THERE OR THAT -- IN OTHER WORDS, I'LL GO AHEAD AND
12 DOUBLE-UP, IN OTHER WORDS, KEEP EVERYTHING AS IT IS, AND
13 I'LL JUST MAKE THE NEXT PAYMENT THAT WOULD BE DUE NEXT YEAR
14 THIS YEAR, AT SOME TIME THAT -- AND I THINK THAT WOULD
15 ADDRESS MR. ROBERTI'S CONCERNS WITH NOT HAVING THE BEST
16 RATE, BUT ALSO ALLOW US NOT TO BE PUT AT A TERRIBLY
17 COMPETITIVE DISADVANTAGE.

18 MEMBER JONES: MR. CHAIRMAN?

19 CHAIRMAN PENNINGTON: MR. JONES.

20 MEMBER JONES: MR. HARRINGTON, IF YOU WERE TO
21 DOUBLE UP AND PAY THE 40 PERCENT, THEN WOULD YOU, INSTEAD OF
22 HAVING 80,000 TIRES HAVE 40,000 TIRES?

23 MR. HARRINGTON: NO. WE WOULD LIKE TO HAVE THE
24 AVAILABILITY TO HAVE 80,000 TIRES ON SITE.

1 MEMBER JONES: WELL, ONE THING THAT HAPPENED WITH
2 BAS, WHEN WE LOOKED AT THIS ON THIS 20 PERCENT FUNDING, WAS
3 THE FACT THAT BAS OWNED ALL THAT PROPERTY. THERE WAS A REAL
4 ISSUE WITH, YOU KNOW, IF THEY WERE ABANDONED THERE WAS A
5 STAKE, THAT FOR THEM TO GET ANY OF THEIR MONEY OUT THEY'D
6 HAVE TO CLEAN UP THE TIRE PILE --

7 MR. HARRINGTON: THANK YOU VERY, VERY MUCH.

8 MEMBER JONES: -- AND THERE WAS THOSE KINDS OF
9 THINGS --

10 MR. HARRINGTON: BAS BOUGHT THE PROPERTY WITH A
11 MORTGAGE, CRM OWNS THE PROPERTY FREE AND CLEAR.

12 MEMBER JONES: DO YOU WANT TO PUT THE PROPERTY UP
13 AS PART OF THE TRUST?

14 MR. HARRINGTON: I DON'T THINK WE SHOULD HAVE TO,
15 THAT'S TOTALLY OUTSIDE THE SCOPE OF THIS.

16 WE ARE STAYING WITHIN THE REGULATIONS. BUT
17 AS YOU POINT OUT --

18 MEMBER JONES: SO ARE WE. AND WHAT WE'RE TRYING
19 TO DO IS LET YOU WALK OUT OF HERE WITH A PERMIT, OR I AM AND
20 EVERYBODY ELSE IS. BUT SOMEHOW -- AND IT'S NOT THE FIRST
21 TIME -- WE'RE NOT ON THE SAME PAGE. WE'RE TRYING TO HELP
22 YOU GET ALONG.

23 IF YOU OWN THAT PROPERTY FREE AND CLEAR, AND
24 THERE IS NO ENCUMBRANCE AGAINST IT, WHAT RISK IS THERE IN

1 PUTTING THAT UP -- AND I DON'T EVEN KNOW IF IT'S LEGAL, BUT
2 PUTTING THAT UP AS A TRUST FUND FOR THE CLEANUP?

3 IT WAS A CONDITION OF -- I MEAN, NOT A
4 CONDITION, BUT WAS ONE OF THE CRITERIA WE LOOKED AT WITH
5 BAS, THE FACT THAT THERE WAS A -- THEY HAD A STAKE.

6 MR. HARRINGTON: I UNDERSTAND THAT. AND YOU
7 UNDERSTOOD THAT THEY HAD A STAKE, AND THEY'D HAVE TO CLEAN
8 IT UP IF IT WAS SOLD. I'M ASKING YOU, I GUESS, TO
9 UNDERSTAND THAT SAME THING, THAT WE ALSO HAVE THAT STAKE IN
10 OWNERSHIP POSITION, AND TO CLOUD THE TITLE WITH THE CLEANUP
11 LANGUAGE WOULD SEEM A LITTLE CUMBERSOME AT BEST.

12 WOULD YOU GO WITH SOME TYPE OF ACCELERATED
13 PAYMENT?

14 MEMBER JONES: WHAT I'M TRYING TO -- I OFFERED. I
15 SAID YOU PUT DOWN 40, MAYBE WE'D DO 40,000 TIRES. THERE IS
16 A WAY TO MINIMIZE OUR RISK.

17 THERE ARE OTHER ISSUES WITH PARCO THAT, YOU
18 KNOW, WERE ON THE ENFORCEMENT SIDE, LIKE FINDING TRAILERS
19 FULL OF TIRES ALL OVER THE PLACE, AFTER WE HAD SAID YOU
20 COULDN'T BRING ANYMORE IN.

21 THIS PICTURE -- I DON'T LIKE GETTING INTO
22 THESE PICTURE-PAINTING THINGS BECAUSE, AS MUCH AS YOU CAN
23 SAY, WE CAN SAY. THERE'S NO BENEFIT. WE'RE NOT HERE TO
24 SLAM YOU, WE'RE HERE TO TRY TO MAKE SURE THAT THE STATE AND

1 THE PEOPLE OF THE STATE ARE COVERED, AND YOU'RE COVERED,
2 THAT YOU CAN OPERATE. IT WAS AN OPTION THAT I OFFERED.

3
4 MR. HARRINGTON: I ACCEPT THE OPTION OF THE 40,000
5 TIRES WITH THE 40 PERCENT PAYMENT.

6 MEMBER EATON: IT WORKS FOR ME IF IT WORKS FOR THE
7 REST OF THE BOARD MEMBERS.

8 AND THEN WE ACCELERATE AS IT'S PAID. YOU
9 KNOW, WHEN YOU MAKE THE NEXT ONE THEN IT WOULD GO UP. AND I
10 GUESS WHEN IT'S FULLY FUNDED IT WILL GO TO 80.

11 DOES THAT WORK?

12 MEMBER EATON: THAT'S FINE.

13 CHAIRMAN PENNINGTON: AND THAT WORKS FOR YOU.
14 OKAY.

15 MR. HARRINGTON: YES.

16 MEMBER JONES: NOW, ARE YOU WILLING TO GO BACK AND
17 IMPOSE THAT IDENTICAL SOLUTION TO BAS, WHICH YOU CAN'T DO
18 BECAUSE YOU'VE ALREADY ISSUED THEM A PERMIT? AND AREN'T WE
19 ENGAGING IN UNEQUAL TREATMENT? WE HAVE ALMOST IDENTICAL
20 SITUATIONS HERE. BOTH HAD SOME VIOLATION PROBLEMS EARLY ON.

21 MEMBER JONES: DID BAS HAVE A DEFAULT PROBLEM?

22 MEMBER EATON: NO. IN FACT, BAS WAS THE
23 BENEFICIARY OF A GRANT FROM THIS BOARD.

24 MEMBER JONES: LOTS OF GRANTS.

1 MEMBER EATON: LOTS OF GRANTS. AND THIS COMPANY
2 HASN'T ASKED FOR ANY.

3 MS. NAUMAN: BUT IF YOU WANT A DISTINCTION I THINK
4 -- AND PLEASE CORRECT ME IF I'M WRONG -- IS THAT THEIR
5 VIOLATIONS AROSE AFTER THEY GOT THEIR PERMIT, NOT -- THEY
6 DIDN'T HAVE A PREVIOUS RECORD BEFORE WE ACTED ON THE PERMIT.

7 I THINK THAT'S THE DIFFERENCE HERE, IS THAT WE'VE GOT
8 SOMEBODY WITH INVOLVEMENT OF PREVIOUS PEOPLE THAT WERE
9 INVOLVED IN A PREVIOUS SITUATION WITH THE BOARD, WE'VE GOT
10 AN EXISTING VIOLATION AS WE START OFF. WHEREAS, AS FAR AS I
11 RECALL, AND THIS COULD BE WRONG, BAS RAN INTO THEIR PROBLEMS
12 AFTERWARDS, AFTER WE GRANTED THE PERMITS. IS THAT NOT
13 RIGHT?

14 I'M JUST SAYING THE DIFFERENCE IS A PREVIOUS
15 RECORD, OR SOMETHING THAT HAPPENS AT THE TIME --

16 CHAIRMAN PENNINGTON: DIDN'T THEY OPERATE UNDER
17 SOME OF THE EXEMPTIONS AS WELL?

18 MR. HARRINGTON: NO.

19 MEMBER FRAZEE: BAS WAS OPERATING UNDER AN
20 EXEMPTION TO BEGIN WITH.

21 (THE PARTIES SIMULTANEOUSLY SPEAK.)

22 MR. HARRINGTON: BAS HAD A MINOR WASTE TIRE
23 FACILITY PERMIT, HAD THEY -- EXCEEDED IT, HAD A CEASE AND
24 DESIST ORDER, CONTINUED TO OPERATE AND ACCEPT TIRES, AND

1 WHILE THEY WERE MAKING APPLICATION FOR THEIR --

2 (THE PARTIES SIMULTANEOUSLY SPEAK.)

3 MEMBER FRAZEE: I DON'T WANT TO CONFUSE THE ISSUE,
4 BECAUSE I THINK IT'S A GOOD SOLUTION. BUT I JUST AM FEARFUL
5 OF THE UNEQUAL TREATMENT.

6 CHAIRMAN PENNINGTON: DIDN'T THEY BUY AN INSURANCE
7 POLICY?

8 MS. NAUMAN: I'M TRYING TO THINK.

9 CHAIRMAN PENNINGTON: LIKE A LANDFILL (INDISC.)?

10 MS. NAUMAN: WELL, I'LL READ THE ONES THAT ARE
11 AVAILABLE.

12 MEMBER JONES: WELL, I THINK WE HAVE IT RESOLVED,
13 THOUGH, DON'T WE? WE HAVE IT RESOLVED. THEY ACCEPTED THE
14 40,000 TIRES AT --

15 MR. HARRINGTON: FORTY PERCENT.

16 MEMBER JONES: -- 40 PERCENT, AS IT GOES UP WE'LL
17 GO IN INCREMENTS AND RAISE IT. STAFF'S GOING TO HAVE TO
18 WRITE THAT PERMIT TO PUT IN THAT ACCELERATION SCHEDULE.

19 MEMBER EATON: DOES THAT MEAN IF THEY GET -- AT
20 40,000, THEY WANT TO GO TO 50,000, THAT THAT'S AUTOMATICALLY
21 ACCELERATED, SO THEY HAVE -- 50, IT'S NOT JUST INCREMENTS OF
22 20? SO LET'S SAY THEY HAVE --

23 CHAIRMAN PENNINGTON: RIGHT, THEY SHOULD BE ABLE
24 TO ADD 10,000 TO THEIR TRUST FUND AND --

CALIFORNIA SHORTHAND REPORTING

1 MEMBER EATON: THAT'S WHAT I'M TRYING TO GET AT,
2 YEAH. IF THEY SO CHOOSE.

3 I THINK WHAT YOU'RE -- KIND OF WHAT YOU'RE TALKING
4 ABOUT IS SOME THINGS WE HAVE SEEN IN THE PAST WITH TRUSTS ON
5 SOME OTHER SITES. ONE SITE I REMEMBER IN PARTICULAR THAT I
6 RECALL, A FAIRLY LARGE ONE, CAME IN AND FULLY FUNDED A
7 TRUST. SO THEY PLOPPED DOWN 100 PERCENT OF THEIR FUNDING,
8 YOU KNOW, BASICALLY THEY CAME IN AND PUT ALL THEIR MONEY
9 DOWN, HAD THEIR TIRES ON THE GROUND ALREADY, AND THERE WAS
10 NO ACCUMULATION.

11 WITH WHAT YOU'RE TALKING ABOUT NOW WITH MR.
12 HARRINGTON, IT WOULD BE -- THE PERMIT WOULD HAVE TO REFLECT
13 SOME KIND OF EITHER PROGRESSIVE SCHEDULING AND -- OR IF THEY
14 HAD -- AND IF YOU CAPPED THEM AT 40,000 TIRES IN THE PERMIT
15 THEY WOULD HAVE TO COME IN AND REVISE THE PERMIT TO GO ANY
16 HIGHER THAN THAT.

17 OTHERWISE, YOU'RE GOING TO HAVE TO BUILD A
18 PERMIT CONDITION IN THERE TO ALLOW THEM SOMEWHERE TO
19 PROGRESS UP, AND WHEN THEY'RE MAKING THEIR DEPOSITS, AS
20 OPPOSED TO RIGHT NOW, A TRUST DEPOSITED INTO ANNUALLY UPON
21 ISSUANCE OF THE PERMIT, SO THEY HAVE A WHOLE ENTIRE YEAR.
22 WE'D HAVE TO BUILD IN SOMETHING THERE IN ORDER TO MAKE THOSE
23 THINGS HAPPEN EITHER BEFORE THEY ACCUMULATE OR SOON
24 AFTERWARDS. EITHER YOU'RE GOING TO GET THEM ON THE FRONT

1 END OR THE TAIL END.

2 MEMBER EATON: MY POINT PRECISELY. I WAS JUST
3 SEEKING CLARIFICATION SO WE'RE ALL ON THE SAME PAGE.
4 BECAUSE THESE HAVE A WAY OF COMING BACK, AND THAT'S SORT OF
5 -- ALL I WAS TRYING TO DO, AND I APPRECIATE THAT BECAUSE
6 THAT'S WHERE WE'RE REALLY TRYING TO GO.

7 MEMBER JONES: THEN LET ME TRY TO LAY THIS OUT,
8 AND SOMEBODY HAS TO WRITE IT DOWN. THAT WE ISSUE A WASTE
9 TIRE PERMIT THAT IN -- WHEN THE TRUST FUND IS FULLY FUNDED
10 THAT PERMIT IS FOR 80,000 WASTE TIRES. 80,000 IS WHAT THIS
11 PERMIT IS FOR, OKAY? MAXIMUM. AS OF TODAY, DO 40 PERCENT
12 OF -- I DON'T KNOW WHAT THE FUNDING LEVEL IS, THAT'S WHY I'M
13 DEALING WITH THIS 40 PERCENT STUFF.

14 SO YOU'RE GOING TO PUT TWO PAYMENTS IN WHICH
15 EQUAL 40 PERCENT OF WHAT YOUR TRUST OBLIGATION IS. AND I
16 SAID THEN YOU GET 40,000 TIRES, WHICH IS HALF OF THE 80.
17 IT'S A LITTLE BIT UP FROM WHAT WE HAD SAID ORIGINALLY.

18 I THINK THAT IN A YEAR, OR SOONER, WHEN YOU
19 FUND THE NEXT 20 PERCENT, THEN THOSE -- THAT PERMIT
20 ACCEPTANCE WILL GO FROM 40,000 TO, I GUESS, 50,000. RIGHT?
21 OR, IT WOULD BE -- NO, IT WOULD BE 40,000 --

22 MS. NAUMAN: WELL, I THINK MAYBE THE STAFF COULD
23 HELP WITH -- WHAT'S THE COST ESTIMATE? BECAUSE WE'RE NOT
24 NECESSARILY DEALING WITH, YOU KNOW, A DOLLAR PER TIRE OR

1 SOMETHING.

2 MEMBER JONES: RIGHT. WHAT I'M TRYING TO GET TO
3 HERE, BECAUSE I DON'T -- I'M NOT SURE WE NEED TO DO THE
4 MATH. THEY'RE GOING TO DO A 40 PERCENT PROPORTION OF THEIR
5 OVERALL TRUST LIABILITY, AND FOR THAT THEY CAN HAVE 40,000
6 TIRES ON SITE.

7 MS. NAUMAN: OKAY. THEN WE'LL JUST KEEP
8 RATCHETING IT UP.

9 MEMBER JONES: ESCALATE IT UP, WITH THE MAXIMUM TO
10 BE 80,000 TIRES ON SITE, WHICH IS WHAT THE PERMIT...?

11 MS. NAUMAN: RIGHT.

12 MEMBER JONES: AND THEY WOULD BE ABLE TO HAVE THAT
13 MANY ON SITE WHEN THE PERMIT -- WHEN THE TRUST FUND IS FULLY
14 FUNDED.

15 MS. NAUMAN: HOW MANY YEARS DO YOU WANT TO GIVE TO
16 FUND THIS TRUST FUND?

17 MEMBER JONES: I WOULD SAY FOUR.

18 MS. NAUMAN: OKAY.

19 MEMBER JONES: BASED ON THE FACT THAT IT WAS A
20 FIVE-YEAR TRUST, YOU'RE DOING TWO THIS YEAR. RIGHT, MR.
21 HARRINGTON?

22 MR. HARRINGTON: CORRECT.

23 MEMBER JONES: DO YOU WANT THREE YEARS LEFT TO GET
24 UP TO THE 80, OR DO YOU WANT TO ACCELERATE THAT?

1 MR. HARRINGTON: IF THE THREE YEARS ARE LEFT,
2 LET'S LEAVE THEM. BUT WE COULD PAY ALL THREE OF THEM, SAY,
3 NEXT YEAR AND BE AT 80 PERCENT --

4 MEMBER JONES: AND IF YOU WERE 100 PERCENT FUNDED
5 YOU WOULD HAVE THE ABILITY UNDER THIS --

6 MR. HARRINGTON: AT ANY TIME -- RIGHT.

7 MEMBER JONES: -- TO HAVE 80,000 TIRES ON SITE.

8 MR. HARRINGTON: RIGHT. AND THAT WE DON'T HAVE TO
9 COME BACK TO THE BOARD EACH TIME TO TRY TO BUMP IT UP TO THE
10 --

11 MEMBER JONES: EXACTLY, EXACTLY.

12 MS. TOBIAS: AND THE 40 PERCENT THAT HE'S PAYING
13 NOW IS GOING TO BE PAID COMPLETELY NOW, NOT KIND OF NOW AND
14 THEN ANOTHER AT THE END OF THE YEAR, SO IT'S --

15 MR. HARRINGTON: WELL, I THINK THERE'S 20 PERCENT
16 ALREADY, AND GIVE US, SAY, TILL THE END OF FEBRUARY FOR THE
17 OTHER --

18 MS. TOBIAS: WELL, THE WAY IT WOULD DO IS,
19 GENERALLY WE WOULD ISSUE THE PERMIT WHEN YOU PAID THE NEXT -
20 - THAT OTHER 20 PERCENT.

21 MR. HARRINGTON: NO. BECAUSE AT 20 PERCENT WE
22 SHOULD BE ABLE TO OPERATE AS SOON AS -- IF THE BOARD, IN ITS
23 WISDOM, WERE TO ADOPT THIS WE SHOULD BE ABLE TO START
24 OPERATING IMMEDIATELY.

1 WE WILL PUT IN THE ADDITIONAL 20 PERCENT ON A
2 TIME TABLE ACCEPTABLE TO THE BOARD. IF IT'S TOMORROW, NEXT
3 WEEK, NEXT MONTH, WHENEVER IT'S ACCEPTABLE, AND THEN WE WILL
4 CONTINUE TO MAKE 20 PERCENT NO LATER THAN 12 MONTHS AFTER
5 WHENEVER YOU SAY OUR SECOND 20 PERCENT IS DUE.

6 MS. NAUMAN: SO, FOR MY CLARIFICATION, 20 PERCENT
7 NOW FOR 16,000 TIRES? ARE WE ALL TALKING THE SAME NUMBER OF
8 TIRES?

9 MEMBER JONES: THE DEAL WAS TWO PAYMENTS, 40,000
10 TIRES. IF WE'RE NOT AT TWO PAYMENTS WE'RE BACK AT 16,000,
11 AS FAR AS I'M CONCERNED.

12 MR. HARRINGTON: OKAY.

13 MEMBER JONES: THAT WAS THE DEAL. IS THAT
14 REASONABLE?

15 MR. HARRINGTON: THAT'LL WORK.

16 MEMBER JONES: OKAY.

17 MR. HARRINGTON: THAT'LL LET US GET STARTED.

18 MEMBER JONES: THAT WILL WORK WITH THE BOARD
19 MEMBERS?

20 MEMBER ROBERTI: RIGHT.

21 MEMBER FRAZEE: AS A POINT OF ORDER I WANT TO MOVE
22 THE ADOPTION OF THE NEGATIVE DECLARATION, RESOLUTION 99-24.

23 MEMBER EATON: AND I'LL SECOND THAT.

24 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY MR.

1 FRAZEE, AND SECONDED BY MR. EATON, THAT WE ADOPT THE
2 NEGATIVE DECLARATION FOR THE NEW WASTE TIRE FACILITY PERMIT
3 FOR CRM COMPANY.

4 IF THERE'S NO FURTHER DISCUSSION, WILL THE
5 SECRETARY CALL THE ROLL, PLEASE?

6 THE SECRETARY: BOARD MEMBER EATON?

7 MEMBER EATON: AYE.

8 THE SECRETARY: FRAZEE?

9 MEMBER FRAZEE: AYE.

10 THE SECRETARY: JONES?

11 MEMBER JONES: AYE.

12 THE SECRETARY: ROBERTI?

13 MEMBER ROBERTI: AYE.

14 THE SECRETARY: CHAIRMAN PENNINGTON?

15 CHAIRMAN PENNINGTON: AYE.

16 THE MOTION CARRIES.

17 CHAIRMAN PENNINGTON: THE SECOND MOTION IS **
18 * CONSIDERATION OF THE SOLID WASTE FACILITY PERMIT ****FILL
19 IN.

20 MEMBER JONES: OKAY. I MOVE RESOLUTION 99-08,
21 WHICH INCLUDES THE AMENDED LANGUAGE, WHICH IS A MAXIMUM
22 80,000 AND THEN THE INCREMENTAL CHANGES AS THE FUNDING IS
23 DONE AS WE PREVIOUSLY DISCUSSED.

24 CHAIRMAN PENNINGTON: OKAY. WE'LL NEED A SECOND

CALIFORNIA SHORTHAND REPORTING

1 FOR THAT.

2 MEMBER FRAZEE: I'LL SECOND.

3 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
4 MR. JONES, SECONDED BY MR. FRAZEE, THE ADOPTION OF
5 RESOLUTION 99-08, AS AMENDED.

6 ALL THOSE IN FAVOR --

7 MS. TOBIAS: MR. CHAIR, I'M SORRY. MAYBE YOU
8 BETTER MAKE SURE -- SO, AS I UNDERSTAND THIS, THIS IS
9 BASICALLY THE 80,000, BUT IT'S THE 20 PERCENT THAT'S ALREADY
10 IN THERE, SO IT'S OPERATING AS 14,000.

11 MEMBER JONES: SIXTEEN THOUSAND.

12 MS. TOBIAS: SIXTEEN, I'M SORRY.

13 MEMBER JONES: IT WILL GO TO 40,000 WHEN THE NEXT
14 PAYMENT EQUALING 20 PERCENT, AND HE WILL INCREASE AS THEY
15 FUND OVER THE NEXT THREE-YEAR PERIOD.

16 MS. TOBIAS: THE INCREMENTS ARE EQUALLY --

17 MEMBER JONES: THE INCREMENTS ARE EQUAL.

18 MS. TOBIAS: -- DISTRIBUTED OVER --

19 MEMBER JONES: EXACTLY.

20 MS. TOBIAS: -- THE PAYMENT STAGES --

21 MEMBER JONES: UNTIL YOU GET TO 80,000.

22 MR. HARRINGTON: BUT CAN BE ACCELERATED AT OUR
23 OPTION.

24 MEMBER JONES: IT CAN BE ACCELERATED AT YOUR

1 OPTION. YOU PAY IT OFF IN FOUR WEEKS YOU'RE AT 80,000, YOU
2 DON'T HAVE TO COME BACK.

3 CHAIRMAN PENNINGTON: OKAY. ANY FURTHER
4 DISCUSSION?

5 MEMBER EATON: BUT YOU DO HAVE TO NOTIFY THE
6 APPROPRIATE PERSONS WHEN YOU WANT TO EITHER ACCELERATE OR
7 YOU WANT TO INCREASE PAST EACH AMOUNT. YOU'VE GOT TO AT
8 LEAST LET US KNOW, OTHERWISE WE'LL BE OUT THERE TO LET YOU
9 KNOW. YOU KNOW THAT.

10 MR. HARRINGTON: I'M WELL AWARE OF THAT.

11 CHAIRMAN PENNINGTON: ANY FURTHER QUESTIONS?

12 IF NOT, WILL THE SECRETARY CALL THE ROLL?

13 THE SECRETARY: BOARD MEMBER EATON?

14 MEMBER EATON: AYE.

15 THE SECRETARY: FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: ROBERTI?

20 MEMBER ROBERTI: AYE.

21 THE SECRETARY: CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: AYE.

23 THE MOTION CARRIES.

24 7: CONSIDERATION OF A NEW MAJOR WASTE TIRE FACILITY PERMIT

1 FOR THE DAVIS STREET TRANSFER STATION, ALAMEDA COUNTY

2 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM NO. 7,
3 CONSIDERATION OF A NEW MAJOR WASTE TIRE FACILITY PERMIT FOR
4 THE DAVIS STREET TRANSFER STATION, ALAMEDA COUNTY. TERRY
5 SMITH.

6 MR. SMITH: YES, I'LL PRESENT THAT ONE, AS WELL.

7 THIS ITEM, THIS DAVIS STREET TRANSFER STATION
8 IS CURRENTLY OPERATING UNDER A MINOR WASTE TIRE FACILITY
9 PERMIT ISSUED IN FEBRUARY OF '98. THE EXPANSION OF THE
10 CRUMB RUBBER MANUFACTURING OPERATIONS IS PLANNED, SO THERE'S
11 A NEED TO EXPAND THE TIRE STORAGE AT THE SITE. THE ISSUES
12 ARE, THIS PROPOSED PERMIT WILL ALLOW STORAGE OF UP TO 12,000
13 TIRES ON SITE.

14 BOARD STAFF HAVE DETERMINED THAT ALL STATE
15 AND LOCAL REQUIREMENTS FOR THE PROPOSED PERMIT HAVE BEEN
16 MET. THE PROJECT DESIGN AND OPERATION ARE CONSISTENT WITH
17 STATE MINIMUM STANDARDS. THE APPLICABLE LOCAL REQUIREMENTS
18 HAVE BEEN MET. AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
19 HAS BEEN SATISFIED.

20 STAFF HAVE DRAFTED A WASTE TIRE FACILITY
21 PERMIT FOR THIS PROJECT, WHICH IS INCLUDED AS ATTACHMENT NO.
22 1 OF THIS ITEM.

23 IN CONCLUSION, STAFF RECOMMEND THAT THE BOARD
24 ADOPT PERMIT DECISION NO. 99-09, APPROVING ISSUANCE OF WASTE

1 TIRE FACILITY PERMIT NO. 01-TI-0037.

2 I'M NOT SURE IF THERE'S ANY REPRESENTATIVES
3 OF THE OPERATOR HERE. I THINK BILL GILMOUR WAS HERE
4 EARLIER, BUT I'M NOT SURE HE'S HERE NOW.

5 THIS CONCLUDES OUR PRESENTATION.

6 CHAIRMAN PENNINGTON: OKAY. ANY QUESTIONS OF
7 STAFF?

8 MEMBER FRAZEE: JUST THE UNDERSTANDING THAT THE
9 FINANCIAL ASSURANCE MECHANISM ACTUALLY TAKES INTO ACCOUNT
10 THE ENTIRE 12,000 TIRES.

11 MR. SMITH: YES, IT DOES, IT'S A PERFORMANCE BOND.

12 MEMBER JONES: MR. CHAIRMAN?

13 CHAIRMAN PENNINGTON: MR. JONES.

14 MEMBER JONES: I'D LIKE TO MAKE A MOTION TO MOVE
15 RESOLUTION 1999-09, THE CONSIDERATION OF THE NEW MAJOR WASTE
16 TIRE FACILITY PERMIT FOR THE DAVIS STREET TRANSFER STATION.

17 CHAIRMAN PENNINGTON: OKAY. WE NEED A SECOND
18 HERE.

19 MEMBER FRAZEE: I'LL SECOND.

20 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY MR.
21 JONES, SECONDED BY MR. FRAZEE, THE ADOPTION OF RESOLUTION
22 99-09, TO CONCUR IN THE ISSUANCE OF A WASTE TIRE FACILITY
23 PERMIT FOR THE DAVIS STREET TRANSFER STATION.

24 IF THERE'S NO FURTHER DISCUSSION, WILL THE

1 SECRETARY CALL THE ROLL?

2 THE SECRETARY: BOARD MEMBER EATON?

3 MEMBER EATON: AYE.

4 THE SECRETARY: FRAZEE?

5 MEMBER FRAZEE: AYE.

6 THE SECRETARY: JONES?

7 MEMBER JONES: AYE.

8 THE SECRETARY: ROBERTI?

9 MEMBER ROBERTI: AYE.

10 THE SECRETARY: CHAIRMAN PENNINGTON?

11 CHAIRMAN PENNINGTON: AYE.

12 THE MOTION CARRIES.

13 ITEM NO. 9: CONSIDERATION OF STAFF RECOMMENDATIONS FOR
14 REVISIONS TO THE PROPOSED CONSTRUCTION-DEMOLITION DEBRIS
15 REGULATIONS, AND APPROVAL TO NOTICE A 15-DAY COMMENT PERIOD.

16 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM NO. 9,
17 CONSIDERATION OF STAFF RECOMMENDATION FOR REVISIONS TO THE
18 PROPOSED CONSTRUCTION-DEMOLITION DEBRIS REGULATIONS, AND
19 APPROVAL TO NOTICE A 15-DAY COMMENT PERIOD. JULIE NAUMAN.

20 MS. NAUMAN: MR. CHAIRMAN, I'VE ASKED MARCIA
21 KEISS, WHO HAS BEEN THE LEAD ON THIS REGULATION PACKAGE, TO
22 PROVIDE YOU WITH A LITTLE BIT OF BACKGROUND AND CONTEXT.
23 WHILE THE ITEM THAT WE'RE BRINGING BEFORE YOU IS JUST FOR
24 THE 15-DAY ADDITIONAL COMMENT PERIOD, I THINK IT'S IMPORTANT

1 TO UNDERSTAND THE PROCESS THAT WE HAVE USED TO DEVELOP THIS
2 REGULATION PACKAGE.

3 MS. KIESSE: GOOD AFTERNOON, CHAIRMAN PENNINGTON
4 AND BOARD MEMBERS. THIS ITEM CONCERNS THE PROPOSED C&D AND
5 INERT DEBRIS REGULATIONS. I'M GOING TO START WITH A LITTLE
6 BACKGROUND.

7 HISTORICALLY, SOLID WASTE REGULATIONS --
8 CHAIRMAN PENNINGTON: EXCUSE ME. WOULD YOU
9 IDENTIFY YOURSELF FOR THE RECORD?

10 MS. KIESSE: I'M SORRY, WE ALREADY KNOW EACH
11 OTHER, THAT'S WHY -- SHE WAS AT THE PUBLIC HEARING. MY NAME
12 IS MARCIA KIESSE.

13 HISTORICALLY, SOLID WASTE REGULATIONS WERE
14 SET UP FOR MUNICIPAL SOLID WASTE LANDFILLS AND TRANSFER
15 STATIONS. MORE OR LESS A ONE-SIZE-FITS-ALL PERMIT, WHICH
16 WAS A FULL PERMIT.

17 THE PROVISIONS OFTEN WERE NOT APPLICABLE TO
18 THEIR SOLID WASTE OPERATIONS, WHICH DEAL WITH NON-
19 TRADITIONAL WASTE STREAM SUCH AS COMPOST, ASH, AND IN THIS
20 CASE, CONSTRUCTION AND DEMOLITION DEBRIS. THIS RESULTED IN
21 UNEVEN APPLICATION OF STANDARDS, AND CONFUSION AMONG THE
22 REGULAR COMMUNITY AND LEAS.

23 IN 1994 THE BOARD ADOPTED A TIER PERMIT
24 FRAMEWORK TO ALLOW FOR MORE FLEXIBILITY. THE BOARD THEN

1 DIRECTED STAFF TO DEVELOP REGULATIONS TO PLACE THESE NON-
2 TRADITIONAL -- WELL, SOLID WASTE OPERATIONS AND FACILITIES,
3 INCLUDING THE NON-TRADITIONAL ONES, INTO SPECIFIC TIERS
4 COMMENSURATE WITH THE POTENTIAL IMPACTS THAT THEY MIGHT POSE
5 TO PUBLIC HEALTH AND SAFETY, AND THE ENVIRONMENT.

6 APPROXIMATELY ONE AND A HALF YEARS AGO P&E
7 STAFF BEGAN DEVELOPMENT OF THE C&D INERT DEBRIS REGULATIONS.

8 WE STARTED BY VISITING SITES THAT STORE, HANDLE AND DISPOSE
9 OF CONSTRUCTION AND DEMOLITION AND THE INERT DEBRIS, AND BY
10 HOLDING THREE INFORMAL WORKSHOPS, ONE IN REDDING, ONE IN
11 SACRAMENTO, AND ONE IN DIAMOND BAR.

12 AN AGENDA ITEM, IN NOVEMBER OF 1997,
13 DETERMINED THAT THE BOARDS HAD LEGAL AUTHORITY TO REGULATE
14 C&D AND INERT DEBRIS.

15 THE BOARD DIRECTED THE STAFF TO TRACK THESE
16 REGULATIONS WITH THE TRANSFER PROCESS OF REGULATIONS WHICH
17 WERE STILL BEING DEVELOPED, AND TO OBTAIN ADDITIONAL
18 PERSPECTIVES ON C&D AND INERT DEBRIS ISSUES.

19 STAFF REQUESTED PUBLIC PARTICIPATION ON A
20 FOCUSED WORK GROUP, WITH REPRESENTATIVES FROM INDUSTRY,
21 ENVIRONMENTAL GROUPS, AND LOCAL AND STATE REGULATORY
22 AGENCIES. THIS GROUP MET FOUR TIMES TO REVIEW AND DISCUSS
23 THE APPROPRIATE LEVEL OF REGULATION, AND TO ASSIST IN THE
24 DEVELOPMENT OF DRAFT TEXT. THESE DRAFTS WERE AVAILABLE ON

1 THE BOARD'S WEB SITE AND AS HARD COPIES.

2 IN FEBRUARY AND MARCH OF 1998, WE HELD TWO
3 MORE INFORMAL WORKSHOPS, ONE IN SACRAMENTO AND ONE IN
4 DIAMOND BAR. WE DID NOT HAVE ONE IN REDDING BECAUSE OF THE
5 LOW ATTENDANCE AT THE FIRST ONE THAT WE HAD HAD.

6 THE MOST RECENT DRAFT WAS DEVELOPED ON
7 SEPTEMBER 23RD, AND WAS NOTICED OCTOBER 16TH, AND POSTED ON
8 THE BOARD'S WEB SITE. WE HAVE COMPLETED THE 45-DAY COMMENT
9 PERIOD, WHICH ENDED ON DECEMBER 28TH, AND WE HAD A PUBLIC
10 HEARING ON JANUARY 13TH.

11 WE ARE HERE NOW TO REQUEST AN ADDITIONAL 15-
12 DAY COMMENT PERIOD IN ORDER TO REVISE THE NOTICED DRAFT TEXT
13 TO ADDRESS THE CHANGES THAT WE'VE RECEIVED THROUGH THE
14 PUBLIC COMMENT PERIOD AND THE PUBLIC HEARING. WE HAVE
15 COPIES OF A WORKING DRAFT RIGHT NOW, WHICH STILL NEEDS
16 REFINEMENT BECAUSE, EVEN AS OF THIS MORNING WE'RE STILL
17 FINDING THINGS THAT WE NEEDED TO CHANGE. BUT, I WILL GO
18 OVER BASICALLY WHAT THESE CHANGES WERE.

19 THE MOST SIGNIFICANT CHANGE, I THINK, IS TO
20 MAKE THEM TRACK MORE CLOSELY WITH THE TRANSFER STATION REGS.

21 AND WHAT WE DID IS TO DEVELOP A NEW SECTION, WHICH IS
22 SIMILAR TO THE ONES IN THE TRANSFER STATION REGS, THAT
23 CONTAIN THE DEFINITIONS AND PROVISIONS THAT CONCERNED
24 ACTIVITIES THAT WON'T BE COVERED BY THIS ARTICLE.

1 ANOTHER CHANGE IS TO CLARIFY THE DEFINITION
2 OF CONSTRUCTION AND DEMOLITION DEBRIS. AND I, AT THIS
3 POINT, WOULD LIKE TO MAKE NOTE OF A CHANGE THAT WAS
4 SUGGESTED TO ME BY RICK BEST THIS MORNING. AND I WILL READ
5 THAT PARTICULAR CHANGE RIGHT NOW. IT'S CONSTRUCTION AND
6 DEMOLITION DEBRIS MEANS SOLID WASTE RESULTING FROM
7 CONSTRUCTION, REMODELING, REPAIR, CLEANUP, OR DEMOLITION
8 OPERATIONS THAT ARE NOT HAZARDOUS AS DEFINED IN TITLE 22,
9 SECTION 66261.3, *ET SEQ.* THIS TERM INCLUDES, BUT IS NOT
10 LIMITED TO, ASPHALT, CONCRETE, PORTLAND CEMENT CONCRETE,
11 BRICK, LUMBER, GYPSUM WALLBOARD, CARDBOARD AND OTHER
12 ASSOCIATED PACKAGING, ROOFING MATERIAL, CERAMIC TILE,
13 CARPETING, PLASTIC PIPE, AND STEEL. THE TERM DOES NOT
14 INCLUDE CONSTRUCTION DEBRIS COMMINGLED WITH 10 PERCENT OR
15 GREATER BY VOLUME OF OTHER TYPES OF NON-HAZARDOUS SOLID
16 WASTE. HOWEVER, C&D DEBRIS MAY BE COMMINGLED WITH ROCKS,
17 SOIL, TREE STUMPS AND OTHER VEGETATIVE MATTER RESULTING FROM
18 LAND CLEARING AND LANDSCAPING FOR CONSTRUCTION OR LAND
19 DEVELOPMENT PROJECTS.

20 I'LL GO BACK NOW TO SOME OF THE CHANGES.
21 ANOTHER ONE I THINK IS SIGNIFICANT IS BENEFICIAL REUSE OF
22 INERT DEBRIS. AND WHEN WE RE-LOOKED AT THAT, WE ENDED UP
23 REMOVING SOME OF THE ACTIVITIES THAT HAD, IN THE PREVIOUS
24 DRAFT, BEEN EXCLUDED. THEY NOW WILL BE IN THE -- NOT

1 SUBJECT TO THIS TIER.

2 ONE OF THE PROVISIONS IN THE PREVIOUS DRAFT
3 WAS FOR AN ENGINEERED INERT FILL. AND IT WAS BROUGHT TO OUR
4 ATTENTION THAT IT'S NOT ALWAYS DESIRABLE TO HAVE AN
5 ENGINEERED INERT FILL FOR EVERY LAND USE, EVERY PLANNED USE.

6 AND, FOR EXAMPLE, IF THEY ARE GOING TO DO WETLANDS OR A
7 GOLF COURSE IT'S NOT DESIRABLE THAT IT BE COMPACTED. AND
8 THEN IN THE SITUATION WHERE YOU'RE PUTTING RIPRAP ON SLOPES
9 TO CONTROL EROSION, IT'S NOT POSSIBLE TO COMPACT IT TO THOSE
10 STANDARDS.

11 I'LL GO OVER A LITTLE BIT BRIEFLY THE REVISED
12 CHART THAT WE PREPARED, ACTUALLY, JUST LAST NIGHT.

13 MS. TOBIAS: MARCIA, DOES THE BOARD HAVE COPIES OF
14 THAT? TELL THEM WHAT PAGE YOU'RE ON?

15 MS. KIESSE: I THINK IT'S A SEPARATE SHEET.

16 MS. TOBIAS: WE'LL GET THAT FROM THE BACK AND --

17 MS. KIESSE: THAT'S THE ONE.

18 MS. TOBIAS: MAYBE YOU COULD TELL THEM, MARCIA,
19 WHILE DEB'S GETTING THAT CHART, WHERE YOU JUST READ FROM,
20 YOUR PREVIOUS ITEM, SO THAT THEY COULD TAG THAT?

21 MS. KIESSE: WELL, BENEFICIAL REUSE IS ON PAGE
22 EIGHT, STARTING WITH LINE 19. AND I'M REFERRING TO THE NEW
23 DRAFT, NOT THE ONE THAT'S IN THE BOOK, THAT BOOK.

24 MEMBER JONES: THE PROPOSED DRAFT, WHERE IT SAYS

1 PAGE EIGHT OF 28?

2 MS. TOBIAS: THE ONE THAT WE JUST PASSED OUT.

3 MS. KIESSE: THE HEADER SAYS "PROPOSED TEXT WITH
4 REVISIONS, JANUARY, 1999."

5 MEMBER JONES: OKAY.

6 MS. KIESSE: SO, ON PAGE EIGHT, LINE 19, IT STARTS
7 THE SECTION THAT TALKS ABOUT WHAT USED TO BE ENGINEERED
8 INERT FILLS, AND IT'S ACTUALLY BENEFICIAL REUSE OF INERT
9 DEBRIS.

10 MEMBER ROBERTI: MR. CHAIRMAN?

11 CHAIRMAN PENNINGTON: SENATOR ROBERTI.

12 MEMBER ROBERTI: WHEN YOU SPEAK OF BENEFICIAL OF
13 INERT DEBRIS, IS IT UNDER THAT BASIS THAT THESE SITES ARE
14 NOT CONSTRUCTION AND DEMOLITION SITES, OR THEY HAVEN'T BEEN
15 CONSIDERED THAT?

16 MS. KIESSE: THEY WERE CONSIDERED LIKE A RECYCLING
17 CENTER. IT'S ANOTHER USE OF THE MATERIAL, RATHER THAN
18 DISPOSAL.

19 MEMBER ROBERTI: AND YET IF WE'RE FILLING A MINE
20 SITE WITH -- WHAT WE CALLED A MINE SITE WITH DEMOLITION
21 MATERIAL, WHICH CONFUSES ME AS TO WHY, THEN, IT ISN'T A
22 CONSTRUCTION AND DEMOLITION SITE THAT SHOULD COME FULLY
23 WITHIN THE PURVIEW OF THIS BOARD FOR PERMITTING PURPOSES, AS
24 WELL.

1 MS. KIESSE: WELL, WE MAKE THE DISTINCTION BETWEEN
2 THE CONSTRUCTION AND DEMOLITION, WHICH COULD INCLUDE
3 PUTRESCIBLE (PHON) MATERIALS LIKE WOOD AND GYPSUM BOARD, AND
4 INERT DEBRIS, WHICH WOULD BE LIKE CONCRETE AND BROKEN
5 ASPHALT, AND THINGS LIKE THAT. AND, SO IF THEY ARE USING
6 ONLY THE INERT PORTION OF C&D -- SO IT WOULD BE, YOU KNOW,
7 CRUSHED PAVEMENT OR SOMETHING LIKE THAT, THEN THAT WOULD BE
8 CONSIDERED A BENEFICIAL REUSE.

9 MEMBER ROBERTI: SO THAT'S CONSIDERED BENEFICIAL
10 REUSE AND, THEREFORE, DOESN'T COME WITHIN THE PURVIEW OF
11 THOSE SIGHTS THAT WE WOULD NORMALLY PERMIT.

12 MS. KIESSE: THERE'S ACTUALLY A COUPLE OTHER
13 STIPULATIONS HERE, BESIDES THE FACT THAT THEY'RE USING INERT
14 DEBRIS.

15 MEMBER ROBERTI: SO THEY HAVE TO USE INERT DEBRIS
16 --

17 MS. KIESSE: RIGHT. AND THE FIRST THING IS IT HAS
18 TO BE INERT --

19 (THE PARTIES SIMULTANEOUSLY SPEAK.)

20 MS. KIESSE: RIGHT.

21 MEMBER ROBERTI: -- WHATEVER.

22 MS. KIESSE: THE FIRST THING IS, IT HAS TO BE
23 INERT.

24 THE SECOND THING IS, IT HAS TO BE PART OF AN

1 APPROVED PLAN, SUCH AS A MINE RECLAMATION PLAN OR A PUBLIC
2 HIGHWAY CONSTRUCTION PLAN, OR MAYBE AN EROSION CONTROL PLAN.

3 AND, IT NEEDS TO CONFORM WITH THE ZONING AND
4 LAND USE CONTROLS FOR THAT AREA.

5 MEMBER ROBERTI: AND DO THESE SITES ALL CORRESPOND
6 TO THE THREE CRITERIA THAT YOU ENUNCIATED?

7 MS. KIESSE: I'M NOT SURE I UNDERSTAND YOUR
8 QUESTION. IF THEY MEET THESE THREE REQUIREMENTS, THEN
9 THEY'RE OUTSIDE OF OUR -- THEY'RE NOT REGULATED BY THIS
10 ARTICLE.

11 MEMBER ROBERTI: AND SO ALL OF THE SITES THAT ARE
12 ENGAGING IN THE RECYCLING PROCESS THAT YOU ARE SPEAKING TO -
13 -

14 MS. KIESSE: WAIT, ARE YOU TALKING ABOUT LIKE
15 SPENT QUARRIES, FOR EXAMPLE?

16 MEMBER ROBERTI: YEAH, SPENT QUARRIES IS WHAT I'M
17 TALKING ABOUT.

18 MS. KIESSE: OKAY. ALL RIGHT.

19 MEMBER ROBERTI: AND WHEN THEY'RE BEING REFILLED.

20 MS. KIESSE: RIGHT.

21 MEMBER ROBERTI: IS THERE ANY INFORMATION AS TO
22 REFILLING TAKING PLACE IN THESE KINDS OF SITES WHICH WOULD
23 DEAL WITH THE REFILLING OF -- IT WOULDN'T COVER ALL THREE --
24 ONE OF THE CRITERIA IS MISSING.

1 MS. KIESSE: YEAH. WELL, THERE ARE SOME MINE
2 RECLAMATION SITES THAT ARE NOT BEING REFILLED WITH INERT
3 DEBRIS. OR, I AM AWARE OF A FEW, I GUESS, LET'S PUT IT THAT
4 WAY.

5 MEMBER ROBERTI: AND, THEREFORE, ARE THEY
6 CONSIDERED, FOR OUR PURPOSES --

7 MS. KIESSE: THEY WOULD BE REGULATED BY THIS
8 ARTICLE, THEY WOULD NOT BE OUTSIDE. AND IN SOME CASES THEY
9 MIGHT ACTUALLY NEED A FULL PERMIT AS A LANDFILL.

10 MEMBER ROBERTI: HOW MANY OF THESE SITES ARE THERE?

11 MS. KIESSE: I COULDN'T TELL YOU. OUR DATABASE
12 HAS SOME SITES THAT -- THE SITES THAT WE KNOW OF, AND I
13 IMAGINE THERE ARE SOME THAT WE DON'T KNOW ABOUT.

14 MEMBER ROBERTI: BUT YOU BELIEVE OR KNOW THAT
15 THERE ARE SOME SITES THAT ARE BEING FILLED WITH PUTRESCIBLE
16 MATERIALS THAT PROBABLY DO NOT HAVE THE FULL PERMIT.

17 MS. KIESSE: YES. AND I THINK THE REASON FOR THAT
18 IS THE DEPARTMENT OF CONSERVATION HAS THE JURISDICTION OVER
19 MINE RECLAMATION. AND THEY ALLOW QUARRIES TO BE BACKFILLED
20 WITH WHAT THEY CALL MINING WASTE. AND IF YOU LOOK AT THE
21 DEFINITION OF MINING WASTE, IT INCLUDES ALMOST ANYTHING,
22 WHATEVER HAPPENED TO BE ON THE SITE AT THE TIME. SO, IT'S
23 REASONABLE TO BELIEVE THAT THERE WOULD BE PUTRESCIBLE
24 MATERIALS WITHIN THOSE --

1 MEMBER ROBERTI: DO THEY HAVE JURISDICTION EVEN IF
2 IT AMOUNTS TO BEING A LANDFILL?

3 MS. KIESSE: WELL, WE MET WITH DIVISION OF MINES
4 AND GEOLOGY STAFF, AND THEY TOLD US THAT WHEN THEY SEE A
5 MINE RECLAMATION PLAN WHERE THE PROPONENTS ARE PLANNING TO
6 USE OTHER THAN INERT MATERIAL THEY ADVISE THEM TO GO TO THE
7 BOARD TO GET A SOLID WASTE FACILITY PERMIT.

8 MEMBER ROBERTI: BUT YOU BELIEVE THERE ARE
9 SITUATIONS WHERE THEY HAVE NOT COME TO THE BOARD.

10 MS. KIESSE: COULD BE, YES.

11 MEMBER ROBERTI: WELL, THEN I THINK THE BOARD
12 OUGHT TO FIND OUT. IT COULD BE AN ISOLATED CASE, IT COULD
13 BE A PRETTY WIDE-RANGING THING, I DON'T THINK WE KNOW, OR
14 HAVE ANY WAY OF KNOWING RIGHT NOW.

15 SO MY OWN RECOMMENDATION IS -- I KNOW IT'S
16 ANCILLARY TO WHAT WE'RE DISCUSSING RIGHT NOW, BUT MY OWN
17 RECOMMENDATION WOULD BE THAT WE DO SORT OF A LITTLE
18 INVENTORY CENSUS AND REPORT BACK --

19 CHAIRMAN PENNINGTON: RIGHT. WELL, WE'RE GOING
20 TO, AT SOME POINT --

21 MEMBER ROBERTI: -- AS TO HOW MANY OF THESE --
22 WHAT'S THE WORD, LANDFILL, MINE FILL? I WISH --

23 CHAIRMAN PENNINGTON: MINE RECLAMATION.

24 MS. KIESSE: MINE RECLAMATION.

1 MEMBER ROBERTI: MINE RECLAMATION, ARE USING
2 PUTRESIBLE MATERIAL.

3 MS. TOBIAS: WELL, AND I THINK --

4 MEMBER ROBERTI: AND WHATEVER ELSE MIGHT QUALIFY
5 THEM FOR -- OR, REQUIRE THEM TO GET A FULL PERMIT.

6 MS. TOBIAS: AND I THINK AT THE SAME TIME WE MIGHT
7 WANT TO LOOK AT THE JURISDICTIONAL ASPECTS OF, YOU KNOW, HOW
8 THESE TWO FIT TOGETHER. TO MY KNOWLEDGE, WE NEVER HAVE
9 ISSUED A PERMIT FOR A MINE RECLAMATION, YOU KNOW, PLAN OR
10 PROJECT THAT HAS COME IN SAYING THAT THEY WERE GOING TO USE,
11 YOU KNOW, SOME TYPE OF WASTE. SO, I THINK IF WE'RE GOING TO
12 GO IN THIS DIRECTION, AND ESPECIALLY IF WE ARE GOING TO LOOK
13 AT THE JURISDICTIONAL AUTHORITY ASPECT OF IT AS WELL.

14 MEMBER JONES: MR. CHAIRMAN?

15 CHAIRMAN PENNINGTON: MR. JONES.

16 MEMBER JONES: MAY I ASK ONE OTHER QUESTION?

17 CHAIRMAN PENNINGTON: SURE.

18 MEMBER JONES: WHEN WE'RE TALKING ABOUT BENEFICIAL
19 REUSE FOR A PROJECT LIKE THIS, DOES THAT BENEFICIAL REUSE
20 CONSTITUTE DIVERSION CREDIT?

21 MS. KIESSE: I WOULD TEND TO SAY YES, IT DOES,
22 BECAUSE IT'S NOT BEING TAKEN TO A LANDFILL.

23 MEMBER JONES: BUT IT IS USING -- IT'S BEING USED
24 TO FILL THE LAND, AS PART OF A RECLAMATION PROJECT. AND IF

1 THAT MINE WAS NOT AROUND, IF THAT QUARRY DID NOT EXIST IN
2 THAT TERRITORY, AND YET THERE WERE FOUR OR FIVE PERMITTED
3 SOLID WASTE LANDFILLS, THAT MATERIAL WOULD GO TO THOSE SOLID
4 WASTE LANDFILLS, AND THEY WOULDN'T GET CREDIT.

5 MS. TOBIAS: MR. JONES, MR. BLOCK WAS GOING TO
6 PERHAPS OPINE ON THIS ISSUE.

7 MEMBER JONES: AND I JUST THINK IT'S -- I THINK
8 WE'RE TALKING ABOUT BENEFICIAL REUSE. BECAUSE THE PACHECO
9 PASS LANDFILL ISSUE THAT WE HEARD ABOUT TODAY WITH THE
10 MERPHS (PHON), I HEARD THE PHRASE USED THAT WE NEED THE
11 INERTS TO BUILD UP AS A BENEFICIAL REUSE, TO BE ABLE TO
12 BUILD THE SITE SO THEY COULD KEEP DOING THE MSW. AND, YOU
13 KNOW, IN FACT, ARE WE PREPARED TO GIVE DIVERSION CREDIT FOR
14 THAT?

15 MEMBER EATON: GIVE DIVERSION CREDIT?

16 MEMBER FRAZEE: I DON'T THINK SO.

17 MEMBER JONES: I DON'T EITHER, BUT I THINK WE NEED
18 TO DEFINE IT BECAUSE --

19 MEMBER FRAZEE: BUT IN THE CASE OF WHERE THE, SAY,
20 CRUSHED CONCRETE IS BEING REUSED BACK IN THE HIGHWAY --

21 MEMBER JONES: A HUNDRED PERCENT.

22 MEMBER FRAZEE: -- THAT SHOULD BE, SO --

23 MEMBER JONES: EVERY BIT OF IT.

24 MEMBER FRAZEE: -- IT'S A DEFINITIONAL PROBLEM,

1 SO.

2 MEMBER JONES: EVERY BIT OF IT. AND THAT'S WHY I
3 BROUGHT IT UP UNDER THE DEFINITION. BECAUSE I THINK WHEN
4 YOU REUSE IT FOR THAT KIND OF GOAL, FOR THAT KIND OF A
5 PROJECT, IT ABSOLUTELY GETS CREDIT. IF YOU BRING IT IN AND
6 USE IT AS THE ROAD BASE UP THE ROAD TO THE LANDFILL, IT
7 SHOULD GET THE CREDIT, BECAUSE YOU WOULD OTHERWISE HAVE HAD
8 TO GO OUT AND BUY THAT MATERIAL.

9 BUT, TO FILL A QUARRY AS PART OF A
10 RECLAMATION PROJECT, TO CONSIDER IT BENEFICIAL REUSE AND
11 GIVE DIVERSION CREDIT FOR THAT IS A STRETCH IN MY MIND.

12 MS. KIESSE: WELL, I THINK WHAT MADE ME THINK THAT
13 IT PROBABLY SHOULD QUALIFY FOR DIVERSION IS THAT THEY'RE NOT
14 JUST DUMPING IT, FOR LACK OF A BETTER WORD, THEY'RE ACTUALLY
15 -- USUALLY THEY ARE GOING TO HAVE -- THEY HAVE SOME OTHER
16 USE. THEY'LL PROBABLY BE PROCESSING IT, SO THERE'S SOME
17 MONEY AND EFFORT GOING INTO IT, AND IT'S NOT JUST A INERT
18 LANDFILL.

19 MS. TOBIAS: WELL, I HAVEN'T DONE SMERA (PHON) IN
20 A NUMBER OF YEARS. BUT I THINK, JUST TO ADDRESS A PART OF
21 YOUR POINT, MR. JONES, AND THAT IS, THAT COULD MAKE A
22 DIFFERENCE BETWEEN, YOU KNOW, BRINGING A SITE BACK UP TO ITS
23 ORIGINAL LEVEL AS OPPOSED TO LEAVING IT IN A DEPRESSED
24 STATE.

1 SO I THINK THIS WHOLE AREA WOULD BENEFIT
2 FROM, YOU KNOW, US COMING BACK AND KIND OF TELLING YOU MORE
3 ABOUT SMERA, MORE ABOUT THE JURISDICTION.

4 I THINK ELLIOT HAS A COUPLE OF COMMENTS ON
5 THE DIVERSION ASPECT. BUT, YOU KNOW, I THINK THIS IS A VERY
6 COMPLEX SUBJECT THAT STARTS RUNNING INTO NOT ONLY, YOU KNOW,
7 OTHER STATUTES THAT WE DON'T DEAL WITH NORMALLY, BUT I THINK
8 IT'S A VERY GOOD ONE FOR THE BOARD TO BE ON. SO I JUST
9 THINK WE'D ALL BENEFIT IF WE CAME BACK IN A MORE ORGANIZED
10 FASHION, IN TERMS OF ANSWERING YOUR QUESTIONS.

11 SO, ELLIOT, COULD YOU JUST ADDRESS THE --

12 MR. BLOCK: SURE. ELLIOT BLOCK WITH THE LEGAL
13 OFFICE. I JUST WANTED TO CLARIFY A COUPLE OF THINGS, NOT
14 MAKE RECOMMENDATIONS ONE WAY OR THE OTHER.

15 IN TERMS OF THE -- WHAT'S BEING DISCUSSED AS
16 THE DIVERSION CREDIT ISSUE, WHICH WE TYPICALLY TALK ABOUT AS
17 DISPOSAL REDUCTION, IN TERMS OF THE WAY THE STATUTES AND THE
18 REGULATIONS ARE WRITTEN, THE WAY YOU HAVE DESCRIBED IT IS,
19 IN FACT, CORRECT. SOMETHING COUNTS AS DISPOSAL IF IT IS
20 DISPOSED OF AT A PERMITTED SOLID WASTE DISPOSAL FACILITY.

21 AND, THEREFORE, IF MATERIAL WAS BEING PLACED
22 IN A FACILITY THAT DID NOT REQUIRE A PERMIT UNDER OUR
23 REGULATIONS IT WOULDN'T COUNT UNDER THE DISPOSAL REDUCTION
24 SYSTEM, AND THAT'S OBVIOUSLY AN ISSUE FOR THE BOARD TO

1 DECIDE HOW THAT LINE GETS DRAWN. SO, I DID WANT TO CLARIFY
2 THAT, THAT IS CORRECT HOW THAT WORKS.

3 IN TERMS OF THE REGULATORY PROVISIONS,
4 THERE'S AN ISSUE THAT WAS RAISED ABOUT THE FACT THAT THERE
5 ARE SOME LANDFILLS THAT MAY BE TAKING -- I'M SORRY, SOME
6 MINE RECLAMATION PROJECTS THAT MAY BE USING NON-INERT
7 MATERIALS. AND I BELIEVE THAT THE REGULATIONS, AS WRITTEN -
8 - THERE'S AN ISSUE AS TO WHETHER THAT WOULD QUALIFY UNDER
9 THE REGULATIONS, VERSUS WHETHER IT'S ACTUALLY HAPPENING OUT
10 IN THE REAL WORLD.

11 THE REGULATIONS AS WRITTEN WOULDN'T ALLOW FOR
12 THAT TO BE OUT OF THE SYSTEM, BUT THERE IS AN ISSUE AS TO
13 WHETHER THAT'S IN FACT HAPPENING. AND THAT'S AN ISSUE
14 SEPARATE FROM HOW THE REGS SHOULD BE WRITTEN, POTENTIALLY,
15 DEPENDING ON WHETHER THERE'S A WAY TO, IN FACT, GAIN SOME
16 ASSURANCE AS TO WHETHER WE CAN FIND OUT HOW MUCH OF THAT IS
17 HAPPENING OUT IN THE REAL WORLD, AND WHETHER THERE'S A --
18 THAT CAN BE ADDRESSED.

19 THE ONLY OTHER ISSUE I WANT TO RAISE, AND
20 IT'S MORE HISTORICAL, IN TERMS OF THE DISCUSSIONS WITH
21 OFFICE OF MINES AND GEOLOGY, ONE OF THE THINGS -- I'LL BRING
22 IT UP, THIS IS ACTUALLY SOMETHING I -- IT'S JUST OFF THE TOP
23 OF MY HEAD, SO I JUST THOUGHT I WOULD THROW IT OUT. IN
24 TERMS OF THE DISCUSSION THAT'S GONE ON WITH THAT OFFICE,

1 MARCIA HAS CERTAINLY CORRECTLY IDENTIFIED WHAT THAT OFFICE
2 SAID THEY DO.

3 AND THE REASON THAT THESE REGULATIONS HAVE
4 GONE FORWARD AS THEY HAVE IS BASED ON SOME DISCUSSION WE HAD
5 A YEAR OR SO AGO, WHEN WE DID SOME LEGAL AUTHORITY ITEM
6 REGARDING THESE, WAS THE IDEA THAT IF THERE WAS ANOTHER
7 STATE AGENCY THAT WAS ALREADY REGULATING THIS AREA, THAT THE
8 BOARD WOULD NOT THEN ALSO REGULATE ON TOP OF IT. IT'S NOT
9 SO MUCH THE LEGAL AUTHORITY, IN TERMS OF THE DEFINITIONS IN
10 THE PUBLIC RESOURCES CODE, AS MUCH AS THE 1220 LANGUAGE, AB
11 1220 LANGUAGE ABOUT NOT OVERLAPPING JURISDICTION OF OTHER --
12 THAT ARE WITHIN THE OTHER AGENCIES.

13 SO, ONE OF THE THINGS THAT WE COULD
14 POTENTIALLY DO -- IN ADDITION TO GOING BACK AND TALKING TO
15 THE OFFICE OF MINES AND GEOLOGY TO GET SOME MORE REAL WORLD
16 INFORMATION, IN TERMS OF WHAT'S GOING ON OUT THERE -- I
17 SUPPOSE WE COULD EXPLORE DOING SOMETHING SIMILAR TO WHAT WE
18 DID WITH THE DEPARTMENT OF OCCUPATIONAL SAFETY AND HEALTH --
19 I ALWAYS MIX UP THE WORDS -- REGARDING AN MOU.

20 AND IF THERE'RE SOME ISSUES ABOUT NOTICES TO
21 WHETHER MINOR RECLAMATION PLANS ARE COMING IN THAT WOULD NOT
22 NECESSARILY FIT THE RIGHT WAY WITHIN THE REGULATIONS THAT WE
23 ADOPT THEN THAT WE COULD HAVE SOME SORT OF NOTICE PROVISION
24 SO THAT WE'RE WORKING TOGETHER WITH THAT AGENCY TO MAKE SURE

1 THAT THERE ISN'T A HOLE THAT SOMETHING FALLS THROUGH.

2 SO, I DON'T KNOW IF THAT HELPS CLARIFY OR
3 NOT.

4 BOARD MEMBER: JUST ONE QUICK QUESTION. WHEN YOU
5 SAID THAT IF IT WAS IN AN UNPERMITTED FACILITY, IT WAS
6 SOMETHING THAT WE DIDN'T PERMIT, IT WOULD NOT COUNT, WOULD
7 COUNT?

8 MR. BLOCK: WELL, PERMITTED, OR ONE THAT REQUIRES
9 A PERMIT I GUESS IS PERHAPS MAYBE -- IN TERMS OF THE WAY THE
10 STATUTE AND THE REGULATIONS ARE WORDED, WHAT COUNTS AS
11 DISPOSAL IS SOLID WASTE DISPOSED OF AT A PERMITTED DISPOSAL
12 FACILITY.

13 CHAIRMAN PENNINGTON: MR. FRAZEE.

14 MEMBER FRAZEE: I JUST WANTED TO POINT OUT, OR
15 PERHAPS ASK THE QUESTION, THERE -- NOT EVERY HOLE IN THE
16 GROUND IS SUBJECT TO THE MINE RECLAMATION ACT. YOU KNOW,
17 ALL THOSE THAT ARE HISTORIC, THAT WERE EXISTING PRIOR TO THE
18 ENACTMENT OF THE ACT, ARE -- THERE'S A POSSIBILITY THAT SOME
19 OF THOSE ARE BEING REFILLED WITHOUT ANY SUPERVISION FROM ANY
20 AGENCY.

21 MR. BLOCK: RIGHT.

22 MEMBER FRAZEE: AND, SO THAT'S ANOTHER AREA TO
23 TAKE A LOOK AT.

24 MR. BLOCK: AND I BELIEVE THAT THE WAY WE WERE

1 WRITING THE REGULATIONS WOULD NOT HAVE LEFT THAT LOOPHOLE.
2 IN OTHER WORDS, WHAT -- ONE OF THE CONDITIONS TO BE OUT OF
3 THIS PARTICULAR REGULATIONS WAS THAT YOU HAD AN APPROVED
4 PLAN. SO IF IT WAS A SITE THAT DIDN'T OTHERWISE HAVE IT,
5 THAT WOULDN'T PULL THEM OUT OF THE REGULATIONS. BUT --

6 MEMBER FRAZEE: IN FACT, THE VERY BEST EXAMPLE OF
7 THAT IS EAGLE MOUNTAIN, WHICH WAS OPERATED AND CLOSED -- THE
8 LARGEST HOLE IN THE GROUND, OPERATED AND CLOSED PRIOR TO THE
9 ENACTMENT OF THE MINE RECLAMATION ACT. AND SO IT CANNOT BE
10 USED WITHOUT A PERMIT.

11 CHAIRMAN PENNINGTON: SENATOR ROBERTI.

12 MEMBER ROBERTI: I DON'T KNOW IF THIS IS IN ORDER,
13 MR. CHAIRMAN, BUT -- BECAUSE I KNOW WE'RE ON A MAIN
14 RESOLUTION RIGHT NOW. BUT I WOULD LIKE TO PROPOSE THAT
15 STAFF BE DIRECTED TO COME UP WITH A CENSUS I GUESS, THAT'S
16 THE ONLY WORD I CAN THINK OF, OF USED QUARRIES -- IS THAT
17 OUR WORD? -- THAT POSSIBLY SHOULD BE SUBJECT TO A
18 REGULATION, THAT ARE NOT, EITHER BY THIS AGENCY OR BY ANY
19 AGENCY, PER MR. FRAZEE'S COMMENT JUST NOW.

20 AND, TWO, THAT WE EXPLORE ANY JURISDICTIONAL
21 -- AND THAT THEY EXPLORE ANY JURISDICTIONAL CONFLICT, AS
22 BETWEEN THE REGULATORY ROLE OF THIS AGENCY AND ANY OTHER
23 AGENCIES, IN PARTICULAR THE OFFICE OF MINES AND GEOLOGY.

24 AND, THAT WE EXPLORE TO WHAT EXTENT DIVERSION

1 CREDITS ARE GIVEN, OR APPLICABLE, IN THE USED QUARRY
2 LANDFILLS.

3 CHAIRMAN PENNINGTON: OKAY.

4 MEMBER ROBERTI: AND THAT THE STAFF REPORT BACK TO
5 US AT SOME REASONABLE TIME.

6 CHAIRMAN PENNINGTON: I THINK WE HAVE A SENSE OF
7 YOUR MOTION. PERHAPS WE COULD APPROVE THE MOTION IN CONCEPT
8 AND ASK YOUR STAFF TO WRITE THE ACTUAL MOTION. WOULD THAT
9 BE OKAY?

10 DOES ANYBODY WANT TO SECOND THIS?

11 MEMBER EATON: SECOND.

12 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY SENATOR
13 ROBERTI, AND SECONDED BY MR. EATON, THAT WE TAKE -- ASK
14 STAFF TO UNDERTAKE A PROJECT OF IDENTIFYING EXISTING
15 QUARRIES, USED QUARRIES AND MINE RECLAMATION AREAS THAT ARE
16 BEING USED AS LANDFILLS, OR INERT FILLS, AND REPORT BACK TO
17 US.

18 IF THERE'S NO FURTHER DISCUSSION ON THAT,
19 WILL THE SECRETARY CALL THE ROLE?

20 THE SECRETARY: BOARD MEMBER EATON?

21 MEMBER EATON: AYE.

22 THE SECRETARY: FRAZEE?

23 MEMBER FRAZEE: AYE.

24 THE SECRETARY: JONES?

CALIFORNIA SHORTHAND REPORTING

1 MEMBER JONES: AYE.

2 THE SECRETARY: ROBERTI?

3 MEMBER ROBERTI: AYE.

4 THE SECRETARY: CHAIRMAN PENNINGTON?

5 CHAIRMAN PENNINGTON: AYE.

6 THE MOTION CARRIES.

7 CHAIRMAN PENNINGTON: DO WE NEED MORE TO GO
8 THROUGH HERE? WE KIND OF GOT SIDETRACKED THERE A LITTLE
9 BIT.

10 MS. KIESSE: YEAH, WE DID.

11 MS. TOBIAS: YEAH, I JUST HAD ONE OTHER THING TO
12 POINT OUT. WHEN I SPOKE ABOUT THE NEW SECTION THAT WE PUT
13 TOGETHER THAT CONTAINS THE DEFINITIONS AND PROVISIONS FOR
14 ACTIVITIES THAT WON'T BE COVERED BY THIS ARTICLE -- THAT'S
15 ON PAGE FIVE.

16 AND I'D LIKE TO REEMPHASIZE THIS, THIS IS
17 STILL A WORKING DRAFT, AND WE STILL HAVE TO MAKE SOME
18 REFINEMENTS TO IT. THE NEXT DRAFT THAT WE WOULD COME OUT
19 WITH WILL BE POSTED ON THE BOARD'S WEB SITE, AND WOULD HAVE
20 THE UNDERLINES AND STRIKEOUTS SO THAT YOU COULD SEE THE
21 CHANGES FROM THE SEPTEMBER 23RD DRAFT.

22 THANK YOU.

23 CHAIRMAN PENNINGTON: ANY FURTHER QUESTIONS OF
24 STAFF? IF NOT, MR. LARRY SWEETSER WOULD LIKE TO ADDRESS

1 THIS ISSUE.

2 MR. SWEETSER: GOOD AFTERNOON, CHAIRMAN
3 PENNINGTON, BOARD MEMBERS, MY NAME IS LARRY SWEETSER,
4 DIRECTOR OF REGULATORY AFFAIRS FOR NORCAL WASTE SYSTEMS. I
5 HAD A LITTLE CHEERING SECTION IN THE BACK BECAUSE I BROUGHT
6 MY PICTURE.

7 FIRST OFF, I'D LIKE TO COMPLIMENT SENATOR
8 ROBERTI ON GETTING RIGHT TO THE HEART OF THIS WHOLE TIERED
9 PERMITTING ISSUE, AND THAT IS HOW YOU TELL THE DIFFERENCE.
10 THAT'S BEEN AN ISSUE THROUGHOUT THIS WHOLE PROCESS, WAY BACK
11 WHEN WE STARTED THE WHOLE THING. IN FACT, I BELIEVE IT'S
12 SEPTEMBER '91 MR. CHANDLER HAD A MEMO OUT THERE DISCUSSING
13 THE 15 CUBIC YARD ISSUE, AND THAT'S WHEN THE WHOLE TIERED
14 PERMITTING STARTED OFF, TRYING TO FIGURE OUT HOW YOU TELL
15 THE DIFFERENCE.

16 WE HAVE A MAJOR CONCERN WITH THIS PACKET THAT
17 WE'VE HAD THROUGHOUT THE PROCESS -- AND WE'RE GETTING PRETTY
18 CLOSE, WE'RE JUST NOT THERE YET -- AND THAT IS THE
19 INCONSISTENCY OVER DEFINITIONS, THE APPLICATION OF THE
20 OPERATING STANDARDS, AND THE LEVELS OF THE TIERS THEMSELVES.

21 AND IN SORT OF FULFILLING MY ROLE AS
22 HISTORIAN, AS I MENTIONED, WE STARTED A LONG TIME AGO WITH
23 THIS WHOLE 15 CUBIC YARDS, WHAT IS IT, HOW DO YOU TELL THE
24 DIFFERENCE. AB 939 CREATED A WHOLE HOST OF NEW FACILITIES.

1 THERE USED TO BE TRADITIONAL RECYCLERS AND GARBAGE
2 COMPANIES, NOW WE'VE GOT A WHOLE MISH-MASH OF THINGS IN
3 BETWEEN. MANY OF US STILL HAVE OUR TRADITIONAL ROLES, SOME
4 OF US HAVE CROSSED OVER THOSE LINES. WE'RE TRYING TO FIGURE
5 OUT WHERE THOSE LINES ARE.

6 AND WHAT WE DID COME UP WITH -- AFTER MANY
7 YEARS AND MANY DISCUSSIONS, AND BOARD STAFF FACILITATED VERY
8 WELL AT THE END -- IS DIVIDING THAT LINE WITH A TWO-PART
9 TEST. I DON'T KNOW IF YOU'VE BEEN BRIEFED ON THAT, BUT IT'S
10 WHERE YOU HAVE A SOLID WASTE HANDLING ACTIVITY TAKING STUFF
11 IN, IF THEY HAVE LESS THAN 10 PERCENT RESIDUAL, AND THEY'RE
12 SEPARATED FOR USE COMING IN, THEY'RE NOT A SOLID WASTE
13 FACILITY SUBJECT TO PERMITS. AND THAT IS SOMETHING THAT
14 EVERYONE ENDED UP AGREEING WITH AS A BASIS.

15 SO, WITH THAT, WE STARTED SLOTTING -- AS
16 THOSE DISCUSSIONS WERE GOING ON WE WERE SLOTTING VARIOUS
17 TIERS IN THE MIX, AND C&D WAS ONE OF THOSE. C&D IS
18 DIFFERENT THAN THE OTHER TIERS IN THAT THEY'RE SO CLOSE TO A
19 TRANSFER STATION, SOLID WASTE TRANSFER STATION THAT I CAN'T
20 TELL THE DIFFERENCE, AND MOST PEOPLE CAN'T EITHER, OVER
21 WHERE YOU HAVE A DIFFERENCE BETWEEN A C&D LOAD COMING IN
22 WITH A LITTLE BIT OF GARBAGE, AND A GARBAGE LOAD WITH A LOT
23 OF C&D. BUT, THEY ARE TREATED DIFFERENTLY IN THIS PACKAGE
24 AND THAT IS CAUSE FOR CONCERN.

1 OUR ISSUE'S BEEN PRETTY SIMPLE, AND I'LL
2 START OFF WITH ONE OF MY HISTORICAL PICTURES, TO ELABORATE
3 ON THE OLD DAYS. THIS IS MY TWO DEBRIS BOXES IN THE
4 BOONIES, THIS WAS REQUIRING A FULL PERMIT WAY BACK WHEN.
5 AND UNTIL THE TIER PERMITTING PACKAGE GOES THROUGH THAT'S
6 WANT THE STANDARD IS. AND EVERYONE AGREED THAT WAS NOT
7 APPROPRIATE.

8 ON THE OTHER HAND, WE HAD ACTIVITIES, SUCH AS
9 THIS, THAT WERE RUNNING UNPERMITTED. SO, THAT'S WHERE WE
10 STARTED DRAWING THE LINE.

11 NOW, TO THE C&D ISSUES -- WELL, ACTUALLY, ONE
12 MORE POINT ON THE REGULATORY TIERS -- I DON'T THINK THAT'S
13 ME SHAKING THE PODIUM. THERE IS REASONS WHY SOME PEOPLE
14 WOULD NOT WANT TO ENTER INTO THE FULL-BLOWN TIER PERMITTING
15 STRUCTURE, AND THAT IS PART OF IT -- LET'S SEE IF I CAN ZOOM
16 IN A LITTLE BIT MORE FOR THE AUDIENCE.

17 WHEN WE (INDISC.) THE NOTIFICATION TIER --
18 THIS IS CONSISTENT THROUGHOUT, YOU HAVE QUARTERLY
19 INSPECTIONS -- REGISTRATION AND FULL PERMITS ARE PERMITS,
20 THEY ARE SOLID WASTE FACILITIES AS OPPOSED TO AN OPERATION,
21 THEY HAVE MONTHLY INSPECTIONS.

22 UNDER THE APPLICATION, THE NOTIFICATION IS
23 SIMPLY A POSTCARD. YOU SEND IN WHAT YOU'RE DOING, IT GETS
24 FILED, YOU GO ABOUT AND DO WHAT YOU NEED TO DO, AND THAT'S

1 APPROPRIATE FOR MANY TYPES OF FACILITIES. FOR REGISTRATION
2 YOU HAVE TO DO MORE OF AN APPLICATION, A LITTLE MORE DETAIL.
3 FOR FULL YOU HAVE TO DO A WHOLE REPORT OF FACILITY
4 INFORMATION, MANY TIMES A BINDER-FULL.

5 CEQA'S ANOTHER ISSUE, UNDER NOTIFICATION.
6 IT'S LOCAL-ONLY, FOR THE OTHERS THEY'RE PERMITS AND,
7 THEREFORE, THEY NEED A HIGHER LEVEL OF SCRUTINY. THE
8 APPROVAL IS MUCH DIFFERENT, AS WELL. SO, THERE'S A LOT OF
9 INCENTIVE FOR SOMEONE, NOT THE TRADITIONAL RECYCLERS OR THE
10 TRADITIONAL SOLID WASTE PEOPLE, BUT THE PEOPLE IN THE
11 MIDDLE, TO TRY AND CIRCUMVENT THE REQUIREMENT.

12 THIS GETS TO THE HEART OF THE TRANSFER
13 STATION TIER. SO I TOOK THE LIBERTY OF PAIRING THEM SIDE-
14 BY-SIDE, AND THERE'S A RATHER GLARING DISCREPANCY BETWEEN
15 THE TWO, AND THAT'S ONE OF OUR PRIMARY CONCERNS. IS, WHEN
16 YOU LOOK AT WHAT WE DID IS SORT TIERS BY NUMBERS OF TONS
17 COMING IN, THE THEORY BEING -- AND SOME PEOPLE DISPUTE IT --
18 BUT THE THEORY THAT WE WENT WITH WAS THAT THE MORE MATERIAL
19 HANDLED THE POTENTIAL MORE PROBLEM COULD ARISE, THAT'S A
20 HIGHER TIER.

21 AND WHEN WE HAVE THE DIFFERENCE BETWEEN A
22 TRANSFER STATION AND A C&D, AS YOU SEE, BOTH HERE AND HERE,
23 THE NUMBERS ARE ESSENTIALLY THE SAME, ONE'S JUST IN A LOWER
24 RANKING. AND THE SAME THING FOR REGISTRATION VERSUS FULL.

1 AND THAT CAUSES CONCERN BECAUSE, AGAIN, WE GET BACK TO THE
2 POINT, IS HOW DO YOU TELL THE DIFFERENCE ON A FACILITY OR A
3 LOAD COMING IN.

4 THERE ARE INHERENT DIFFERENCES IN C&D, AND
5 THERE ARE REASONS TO TREAT THEM SOMEWHAT DIFFERENTLY, BUT WE
6 HAVEN'T GOT TO THAT POINT.

7 THE OTHER ASPECT, ASIDE FROM THE NUMBERS AND
8 GETTING CONSISTENCY THERE, IS THE OPERATING STANDARDS. AND
9 THOSE OF US THAT HAVE TO LIVE UNDER STATE MINIMUM STANDARDS
10 TRY TO FIND COMFORT IN TRYING TO MAKE THESE THINGS
11 CONSISTENT.

12 AND, ADMITTEDLY, THE C&D ARE CLOSE TO WHAT
13 THE SOON-TO-BE-APPROVED TRANSFER STATIONS ARE. THERE ARE
14 SOME MAJOR DIFFERENCES IN A NUMBER OF STANDARDS, SOME OF
15 WHICH DON'T APPLY TO C&D AT ALL, SOME OF WHICH DO, ONE OF
16 THOSE BEING DUST AND NOISE, AND ALSO NUISANCES, BUT THE MAIN
17 ONE IS NOISE.

18 THE PROVISION UNDER C&D -- AND I WON'T READ
19 THESE THINGS -- DOES CONTAIN AN ISSUE.... ONE ITEM, IN THE
20 TRANSFER STATION REGS THAT IS NOT IN THE C&D REGS THAT I
21 THINK SHOULD BE, IS THAT COMPLIANCE WITH SPECIFIC PROVISIONS
22 REGARDING NOISE CONTROL IN A LOCAL LAND USE APPROVAL, SUCH
23 AS A CONDITIONAL USE PERMIT OR CEQA MITIGATION MEASURES,
24 SHALL BE CONSIDERED COMPLIANCE WITH THE STANDARD. SO, IF

1 YOU'RE COMPLYING WITH ANOTHER STANDARD, YOU WOULD COMPLY
2 WITH IT HERE. IT'S NOT AS EXPLICIT IN THE C&D REGS. THE
3 SAME THING FITS FOR DUST AND OTHERS.

4 SO, THERE'S NOT QUITE A MESH OF WHAT THOSE
5 STANDARDS ARE. AND, ADMITTEDLY, SOME MAY NOT NEED TO BE
6 THERE, BUT THESE REGULATIONS DON'T SHOW THAT.

7 SO, WHEN AN LEA GOES OUT TO A FACILITY AND
8 YOU TRY TO FIGURE OUT WHAT TYPE OF FACILITY THEY'RE GOING TO
9 REGULATE AS, YOU END UP WITH SOME OF THESE DISCREPANCIES, AS
10 FAR AS WHAT THE OPERATING STANDARD TO IMPOSE ON THEM, OR
11 WHAT THE TRANSFER -- WHAT THE TIER LEVEL IS THEY'RE GOING TO
12 BE INTO.

13 AND I KNOW MANY OF AN OPERATOR THAT WOULD MUCH
14 RATHER BE IN A LOWER TIER THAN A HIGHER TIER, IF THEY CAN DO
15 THAT. IN FACT, AS HAS BEEN POINTED OUT BEFORE, MANY OF THEM
16 ACTUALLY ADVERTISE FOR WASTE, AND THIS FACILITY ACTUALLY IS
17 UNPERMITTED, THEY'VE HAD QUESTIONS RAISED, AND SO FAR
18 THEY'VE BEEN OKAY. BUT, THEY DO ADVERTISE FOR GENERAL
19 WASTE.

20 MEMBER JONES: IT'S A RECYCLING CENTER, ISN'T IT?
21 NO, I'M BEING FACETIOUS.

22 MR. SWEETSER: DEPENDS ON DEFINITIONS. YOU KNOW
23 THAT ONE VERY WELL.

24 WHICH BRINGS ME TO MY INFAMOUS SHAM (PHON)

1 RECYCLING SLIDE. AND, AGAIN, WE'RE NOT LOOKING -- WE HAVE
2 FACILITIES, LANDFILLS, WE HAVE TRANSFER STATIONS, WE HAVE
3 INERT FACILITIES, WE HAVE RECYCLING CENTERS, WE HAVE
4 FACILITIES BOTH WITHIN AND WITHOUT THE BOARD'S AUTHORITY,
5 AND WE WANT TO KEEP THEM THAT WAY. A LOT OF THE TRADITIONAL
6 RECYCLING INDUSTRY, AND EVEN IN THIS CASE, INERT FACILITIES
7 AND OTHERS HAVE FACILITIES, RIGHTLY, OUTSIDE THE BOARD'S
8 AUTHORITY.

9 WHAT WE'RE ALL RUNNING INTO IS THE PEOPLE
10 THAT DON'T COME TO THESE MEETINGS, THE ONES THAT (INDISC.)
11 THESE.

12 THIS IS, AS A REMINDER, A SELF-CLAIMED C&D
13 OPERATION IN SAN FRANCISCO, ORDERED TO CLOSE TWO YEARS AGO,
14 STILL ACTIVELY RUNNING, AND THE BOARD HAS PROVIDED 2136
15 GRANT FUNDS TO IT.

16 MEMBER ROBERTI: IN SAN FRANCISCO?

17 MR. SWEETSER: IN SAN FRANCISCO. THE LEA HAS
18 TRIED, MUCH TO THEIR EFFORT, AND WE'VE BEEN UNSUCCESSFUL IN
19 SHUTTING THESE TYPES OF FACILITIES DOWN. AND THAT'S WHERE
20 WE GET INTO A LOT OF PROBLEMS WITH THE LACK OF CONSISTENCY
21 OF THE REGS.

22 YES, SIR?

23 MEMBER JONES: THIS IS STILL RUNNING? IS THIS
24 MOBILE? MOBILE'S STILL BRINGING STUFF IN?

1 MR. SWEETSER: THE LAST TIME I CHECKED. IT COMES
2 AND GOES.

3 MS. KIESSE: MR. JONES, JUST TO LET YOU KNOW, WE
4 LOOKED AT THAT FOR ONE OF OUR PRIORITY TEAM TARGETS, AND AT
5 THE TIME WE LOOKED AT IT THEY WERE NOT TAKING IN WASTE,
6 WASTE WAS STILL THERE. HOWEVER, 2136 HAS CLEANED UP A BIG
7 MAJORITY OF THE SITE. THERE'S STILL SOME WASTE THERE, BUT
8 THERE'S NO NEW WASTE BEING DEPOSITED.

9 THAT AREA, THOUGH, DOES GENERATE A LOT OF
10 WASTE, IT'S KIND OF LIKE A MAGNET FOR WASTE DEPOSITING. SO,
11 THERE MIGHT BE SOME OVERNIGHT DROP-OFF, BUT THAT OPERATOR
12 HAS NOT BEEN TAKING WASTE AT THAT LOCATION.

13 MEMBER JONES: BUT HE STILL HAS HIS TRUCKS AND HIS
14 BOXES.

15 MR. SWEETSER: HIS BOXES ARE STILL THERE.

16 MEMBER JONES: SO I DIDN'T --

17 (THE PARTIES SIMULTANEOUSLY SPEAK.)

18 MEMBER JONES: -- COST RECOVERY I WANTED.

19 MR. SWEETSER: NO, YOU DID NOT.

20 WHICH GETS TO THE POINT -- AND AFTER ALL THE
21 EFFORT WE SPENT ON TRANSFER STATIONS THESE PEOPLE ARE STILL
22 OUT THERE ON THESE ISSUES, CAUSING BOTH THE TRADITIONAL
23 RECYCLERS AND THE TRADITIONAL SOLID WASTE PEOPLE PROBLEMS.

24 AND WHAT WE STRIVED FOR IN THE BEGINNING IS

1 CONSISTENCY WITH THOSE TRANSFER STATION TIERS THAT WE FOUGHT
2 SO HARD FOR AND, HOPEFULLY, REFLECTED IN THE PACKAGE. WE'RE
3 CLOSE, WE'RE NOT QUITE THERE YET, SO I WOULD URGE YOU TO GO
4 OUT FOR ADDITIONAL COMMENT ON THAT.

5 I THINK THERE IS TIME THAT CAN BE ALLOWED
6 BEFORE THAT TO SIT DOWN WITH THOSE OF US THAT HAVE THESE
7 CONCERNS ON A VARIETY OF ISSUES, AND SEE IF WE CAN FINALIZE
8 THE AGREEMENT. AND I THINK IT WOULD BE HELPFUL TO DO THAT
9 ONCE THE TRANSFER STATIONS ARE DONE, OAL IS SATISFIED, THEN
10 WE KNOW WHAT THE CLARITY IS FROM THERE, AND THEN CAN APPLY
11 IT MOST APPROPRIATELY. AND I THINK THAT'S WHAT TIERS IS
12 ABOUT.

13 I CAN ANSWER MORE QUESTIONS, OR GO INTO SOME
14 MORE INFORMATION, BUT I THINK THAT HITS THE HIGHLIGHTS.

15 CHAIRMAN PENNINGTON: QUESTIONS OF MR. SWEETSER?

16 MEMBER FRAZEE: I DO HAVE JUST ONE.

17 CHAIRMAN PENNINGTON: MR. FRAZEE.

18 MEMBER FRAZEE: ARE YOU SATISFIED WITH THE
19 DEFINITION OF NOT SUBJECT TO IN THE REGS? THAT'S KIND OF A
20 KEY POINT FOR ME, THE EXCLUDED -- NOT EXCLUDED, BUT THE NOT-
21 SUBJECT-TO CATEGORY.

22 MR. SWEETSER: I WAS GETTING LOST BACK THERE ON
23 WHICH SECTION THAT ACTUALLY WAS, BUT --

24 MEMBER FRAZEE: WELL, WE HAVE A CHART THAT LISTS

1 IT ALSO, BUT IT'S PAGE EIGHT, STARTING WITH LINE 19.

2 MS. TOBIAS: MARCIA, DO YOU HAVE A CHART THAT YOU
3 FLIP FOR MR. SWEETSER THAT HE CAN FLIP THROUGH?

4 MEMBER FRAZEE: YOU KNOW, I THINK THAT'S THE POINT
5 WE HAVE TO START FROM, AND BE SURE THAT WE'RE ALL READING
6 FROM THE SAME SHEET OF MUSIC ON THAT.

7 MEMBER JONES: IT STARTS ON PAGE FIVE, MR. FRAZEE?

8 MEMBER FRAZEE: WHAT?

9 MEMBER JONES: DOES IT START ON PAGE FIVE?

10 MEMBER FRAZEE: WELL, THE ACTUAL -- THE EXCLUSION
11 PART STARTS ON PAGE -- AT LEAST MY READING, PAGE EIGHT, LINE
12 19.

13 MEMBER JONES: PAGE EIGHT? OKAY.

14 MR. SWEETSER: I BELIEVE YOU'RE DEALING WITH
15 WHAT'S EXCLUDED OUTSIDE THE BOARD'S AUTHORITY, AS FAR AS
16 INERT SITES AND --

17 MEMBER FRAZEE: YEAH, AND THIS TERM OF EXCLUSION,
18 AND NOT-SUBJECT-TO -- I'M CONFUSED IN MY MIND, BUT IT'S THE
19 NOT-SUBJECT-TO CATEGORIES.

20 MR. SWEETSER: I THINK I HAVE TO DEFER ON THAT
21 ONE. I MEAN, THERE ARE A NUMBER OF INERT SITES THAT SHOULD
22 BE THERE, SOME OF WHICH ARE NOT. AND I THINK THERE'S OTHER
23 PEOPLE THAT ARE PLANNING TO ADDRESS THAT ISSUE.

24 BUT, THERE IS A DEFINITION THAT WAS WORKED

CALIFORNIA SHORTHAND REPORTING

1 OUT, AS FAR AS WHAT IS EXCLUDED FROM BOARD AUTHORITY, AND
2 THAT WAS A VERY GOOD FUNCTIONAL DEFINITION.

3 MEMBER FRAZEE: OKAY.

4 CHAIRMAN PENNINGTON: OKAY. IF THERE ARE NO OTHER
5 QUESTIONS FOR MR. SWEETSER --

6 MR. SWEETSER: THANK YOU VERY MUCH.

7 CHAIRMAN PENNINGTON: -- WE'LL MOVE ON TO EVAN
8 EDGAR -- WHO SAYS A MIND IS A TERRIBLE THING TO WASTE.

9 MR. EDGAR: I SEE YOU'RE FEELING BETTER. GOOD
10 AFTERNOON, MY NAME IS EVAN EDGAR OF EDGAR ASSOCIATES, ON
11 BEHALF OF THE CALIFORNIA REFUGE REMOVAL COUNCIL. I'M THE
12 DIRECTOR OF REGULATORY AFFAIRS.

13 CRC MEMBERS OPERATE C&D PROCESSING FACILITIES
14 THROUGHOUT CALIFORNIA AT LANDFILLS FROM RICHMOND TO SAN
15 LUIS, AT MERPHS FROM TAHOE TO SAN JOSE, AND FROM TRANSFER
16 STATIONS FROM ORANGE COUNTY TO MODESTO. AND FOR THE WHOLE
17 TIME C&D PROCESSING FACILITIES HAVE BEEN UNDER A SOLID WASTE
18 FACILITIES PERMIT. OVER THE LAST 10 YEARS IT'S BEEN ONE
19 SIZE FITS US.

20 WE'VE BEEN HEAVILY REGULATED, AND WE'VE
21 COMPLIED WITH STATE MINIMUM STANDARDS, WE KNOW THEM, AND
22 THEY'RE ACHIEVABLE, THEY'RE NOT THAT TOUGH. THEY'RE
23 PERFORMANCE-BASED, AND OVER THE YEARS WE'VE ACHIEVED A LOT
24 OF DIVERSION AT C&D PROCESSING FACILITIES ASSOCIATED WITH

1 OUR SOLID WASTE FACILITIES PERMIT.

2 TODAY'S PACKAGE DOES ACTUALLY DEREGULATE
3 CERTAIN ASPECTS OF C&D, AS IT SHOULD. BUT, AT THE SAME
4 TIME, IT BRINGS OTHER FACILITIES THAT WERE OUTSIDE OF THE
5 REGULATION INTO PARITY WITH STATE MINIMUM STANDARDS. AND WE
6 APPROVE OF THAT, THAT'S BEEN THE WHOLE EQUITY ISSUE THAT
7 WE'VE BEEN BRINGING UP FOR THE LAST YEAR AND A HALF. SO,
8 WHAT I CALL THESE REGULATIONS ARE THE EQUAL OPPORTUNITY
9 REGULATIONS, IN WHICH WE FINALLY GET EQUITY WITH GOOD
10 DEFINITIONS.

11 THE C&D REGULATIONS NEED TO TRACK THE
12 TRANSFER STATION REGULATIONS, AS POINTED OUT BY MR.
13 SWEETSER, WE WOULD CONCUR WITH THAT. WE'VE LEARNED A LOT
14 FROM THAT PROCESS. PLUS, WE LEARNED A LOT FROM THE COMPOST
15 REGULATIONS ON THE STORAGE OF DIFFERENT TYPE OF MATERIALS,
16 SUCH AS ORGANIC MATERIALS AND COMMINGLED C&D MATERIALS. I
17 BELIEVE THAT WE'RE TRYING TO INSERT SOME OF THAT INFORMATION
18 INSIDE OF THE REGULATIONS, AS WELL. SO, I THINK WE'VE DONE
19 A PRETTY GOOD JOB ON THAT.

20 I THINK SENATOR ROBERTI'S COMPLETELY ON
21 TARGET WITH REGARDS TO THE MINING ISSUE. I'VE WORKED IN
22 BAKERSFIELD, AND THROUGHOUT CALIFORNIA, ON DIFFERENT TYPES
23 OF MINING RECLAMATION PLANS AND DID MY RESEARCH ON THIS
24 TOPIC.

1 TALKING TO THE MINES AND GEOLOGY STAFF, THEY
2 LOOK AT RECLAMATION PLANS SUCH AS THIS BOARD LOOKS AT
3 CLOSURE AND POST-CLOSURE MAINTENANCE PLANS FOR LANDFILLS.
4 THEY'RE WORRIED ABOUT THE FINAL FILL, AND HOW TO MAINTAIN
5 THE FINAL FILL. HOW IT'S FILLED UP -- IF IT'S FILLED UP
6 WITH ON-SITE MATERIALS, THAT'S GREAT. BUT WHEN YOU IMPORT
7 MATERIALS TO THAT SITE, AND IT'S COMMINGLED C&D, THEN YOU DO
8 HAVE PROBLEMS.

9 IF YOU LOOK AT THE REAL-WORLD CASE STUDY --
10 WE HAD A GENTLEMAN UP HERE FROM BAKERSFIELD ABOUT FOUR OR
11 FIVE MONTHS AGO, HE WAS TALKING ABOUT CARDBOARD, CARPET, AND
12 THAT'S RIGHT IN HIS WASTE DISCHARGE REQUIREMENTS. AND THAT
13 IS REAL WORLD, AND HE'S OPERATING WITHOUT A PERMIT, HE'S
14 OPERATING WITHOUT PAYING BOE (PHON) FEES, BUT HE'S GETTING
15 AB 939 DIVERSION CREDITS FROM KERN COUNTY. THAT IS A REAL-
16 WORLD CASE STUDY, IT'S CALLED THE HALLOWAY (PHON) RANCH.
17 SO, THAT'S SOMETHING WE CAN ADD TO YOUR CASE STUDIES.

18 WITH REGARDS TO THE DEFINITIONS THAT MR.
19 FRAZEE POINTED OUT, ON WHAT IS NOT EXCLUDED, I THINK THERE'S
20 A PRETTY GOOD DEFINITION OF WHAT SHOULD BE EXCLUDED, BUT
21 WITH A LITTLE MORE INFORMATION ON THE MINE RECLAMATION
22 SITES. THERE'S ABOUT FIVE PAGES OF DEFINITIONS THERE THAT
23 LEAD UP TO YOUR QUESTION, AND I THINK THAT'S PRETTY CLOSE.

24 MEMBER FRAZEE: YEAH, RIGHT.

1 MR. EDGAR: AND I THINK IT'S PRETTY CLOSE. IT'S
2 PRETTY CLOSE, EXCEPT FOR THE MINE RECLAMATION ASPECT.

3 WE CONCUR WITH THE STAFF RECOMMENDATION
4 NUMBER ONE. I THINK WE HAVE A LOT OF NEW INFORMATION TODAY,
5 NOT ONLY FROM NEW DEFINITIONS PUT FORTH BY RICK BEST, AND
6 SOME ADDITIONAL TESTIMONY TODAY, SO I WOULD ENJOY TAKING
7 ANOTHER 15 DAYS TO LOOK AT THE C&D REGS. A LOT OF GOOD
8 WORK'S BEEN PUT IN ON IT, AND WE CAN AFFORD ANOTHER 15 DAYS.

9 ONE ASPECT THAT WAS BROUGHT UP IN THE STAFF
10 REPORT WAS THE TRANSITIONARY (SIC) PERIOD ON AB 59, AND
11 THAT'S VERY IMPORTANT. I HAVE SOME MEMBERS OF CRC THAT
12 WOULD LIKE TO UTILIZE A REGISTRATION SOLID WASTE FACILITIES
13 PERMIT WITHOUT BEING SHUT DOWN DUE TO AB 59 CONCERNS. I
14 THINK THAT WAS A GOOD IDEA TO ADDRESS THAT, AND WE WANT TO
15 BE IN COMPLIANCE AS SOON AS THESE REGULATIONS ARE ADOPTED.

16 THANK YOU FOR THE OPPORTUNITY TODAY.

17 CHAIRMAN PENNINGTON: QUESTIONS OF MR. EVAN EDGAR?
18 NONE? THANK YOU.

19 NEXT WE'LL HEAR FROM CHARLIE BIRD.

20 (THE PARTIES SIMULTANEOUSLY SPEAK.)

21 CHAIRMAN PENNINGTON: IN FACT -- WELL, LET'S GET
22 THROUGH THIS ONE AND THEN WE'LL TAKE A BREAK. IS THAT OKAY?

23 OKAY. GO AHEAD, MR. BIRD.

24 MR. BIRD: THANK YOU. GOOD AFTERNOON, MEMBERS OF

1 THE BOARD. I'M CHARLES BIRD, THE LEA FROM BUTTE COUNTY. I
2 ALSO REPRESENT THE NORTHERN CALIFORNIA TECHNICAL ADVISORY
3 COMMITTEE LEAS.

4 AND SPEAKING FOR THEM THIS AFTERNOON, WE
5 CERTAINLY WOULD BE IN FAVOR OF A 15-DAY COMMENT PERIOD.
6 WE'D BE IN FAVOR OF EVEN A LONGER ONE IF AT ALL POSSIBLE.

7 OUR PROBLEM UP IN THE NORTH STATE IS THAT
8 MOST OF US ARE EITHER ONE- OR TWO-PERSON OPERATIONS, AND WE
9 HAVE AN AWFUL LOT OF THINGS TO CONSIDER, WE'VE GOT TO KEEP
10 OUR INSPECTIONS GOING AND EVERYTHING. AND OFTEN TIMES THESE
11 THINGS JUST KIND OF OVERWHELM US.

12 AND IN OUR LAST DISCUSSIONS ABOUT THE C&D
13 REGS, I DIDN'T TALK TO ANYONE IN OUR GROUP, AND WE HAVE 11
14 COUNTIES WHO FELT LIKE THEY REALLY HAD ADEQUATE TIME TO GO
15 THROUGH THEM. THEY'RE A LITTLE BIT CONCERNED ABOUT WHAT
16 THEY CONSIDER TO BE SOME OF THE AMBIGUITIES IN THE LANGUAGE
17 WHICH WOULD CAUSE THEM SOME ENFORCEMENT PROBLEMS. AND SO WE
18 CERTAINLY WOULD BE IN FAVOR OF EVEN HAVING A LONGER COMMENT
19 PERIOD, IF AT ALL POSSIBLE. THANK YOU.

20 CHAIRMAN PENNINGTON: ANY QUESTIONS OF MR. BIRD?

21 IF NOT, WE'LL HEAR FROM CHARLIE REA.

22 MR. REA: CHARLIE REA WITH THE CONSTRUCTION
23 MATERIALS ASSOCIATION OF CALIFORNIA, WE REPRESENT AGGREGATE
24 PRODUCERS AND READY-MIX PRODUCERS IN THE NORTHERN TWO-THIRDS

1 OF THE STATE.

2 PRIMARILY I WANTED TO THANK THE STAFF FOR
3 WORKING WITH US ON ISSUES WE'VE HAD WITH THE PROPOSED
4 REGULATIONS, AND IT SEEMS LIKE THEY'VE BEEN LISTENING, AND
5 THE CURRENT DRAFT TAKES A LOT OF OUR CONCERNS INTO ACCOUNT.

6 AND, PRIMARILY, OUR MEMBERS' INTERESTS ARE
7 THE RECYCLING OF THE ASPHALT AND CONCRETE FOR REUSE IN ROAD
8 BASE, AND THEN THE MINE RECLAMATION TO HELP USE CONCRETE AND
9 ASPHALT RUBBLE TO STABILIZE SLOPES AND FILL THE PITS, AND
10 JUST USE OF INERT MATERIALS. THANKS.

11 CHAIRMAN PENNINGTON: THANK YOU.

12 ANY QUESTIONS OF MR. REA? OKAY, THAT
13 CONCLUDES THE PUBLIC COMMENT ON THIS ISSUE.

14 DOES ANYBODY WANT TO MAKE A MOTION?

15 BOARD MEMBER: I THINK WE'RE WORKING ON TRYING TO
16 DO THIS. IF WE DO -- IF WE EXTEND THE 15-DAY COMMENT
17 PERIOD, BUT IN THAT PROCESS COME BACK WITH THE SMARA
18 INFORMATION, OR -- OR IF IT TAKES YOU A LITTLE BIT LONGER,
19 YOU KNOW, WHATEVER IT TAKES TO GET THAT DONE -- RIGHT? AND
20 THEN AT THE COMPLETION OF THAT INFORMATION DELIVER THAT AT
21 THE SAME TIME WITH THIS, AND THEN WE CAN MAKE A
22 DETERMINATION IF IT HAS TO GO OUT FOR ANOTHER 15 DAYS OR NOT
23 AT THAT TIME. BUT, I THINK WE CAN'T -- YOU KNOW, WE NEED TO
24 HAVE THAT SMARA INFORMATION.

1 SO I WOULD -- MY MOTION IS TO EXTEND THE 15-
2 DAY -- OR, START THE 15-DAY COMMENT PERIOD, INSTRUCT STAFF
3 TO DO THE SMARA, BRING IT BACK AS PART OF THIS PACKAGE, AND
4 THEN WE'LL MAKE A DETERMINATION AT THAT POINT.

5 MS. TOBIAS: I'M CONFUSED WITH WHAT YOU WANT TO
6 DO, MR. JONES, AND MAYBE I DIDN'T EXPLAIN IT.

7 YOU COULD EITHER START THE 15-DAY REVIEW
8 TODAY, THAT WOULD ENCOMPASS THE CHANGES THAT MARCIA BROUGHT
9 FORWARD TODAY, AND THEN IN THE MEANTIME WE WOULD DO THE
10 OTHERS. BUT I DON'T -- WE'RE NOT GOING TO BE BACK IN 15
11 DAYS --

12 MEMBER JONES: OH, NO, I UNDERSTAND THAT.

13 MS. TOBIAS: -- WITH THE SMARA.

14 SO, AND THEN THE OTHER CHOICE WOULD BE TO NOT
15 START THE 15-DAY --

16 MEMBER JONES: UNTIL YOU COME BACK --

17 MS. TOBIAS: -- REVIEW TODAY, BUT TO HOLD IT UNTIL
18 WE GET BACK IN CASE IT CHANGES OTHER THINGS.

19 AND, SO MY RECOMMENDATION IS, IS THAT YOU
20 SIMPLY GO WITH THE MOTION THAT YOU HAD EARLIER, WHICH IS TO
21 GO OUT AND DO THAT AND -- AS SOON AS WE ARE ABLE. AND, YOU
22 KNOW, WE KNOW THE C&D REGS HAVE BEEN WORKED ON FOR A WHILE.

23 SO, AS SOON AS IT'S EXPEDIENT WE WILL BRING IT BACK, AND
24 THEN YOU CAN DECIDE ON THE REVIEW FOR THE WHOLE PACKAGE.

1 NOW, YOU COULD DO EITHER, BUT THAT'S MY RECOMMENDATION, IS
2 TO BASICALLY DO IT ALL AT THE SAME TIME.

3 MEMBER JONES: THAT WAS MY FAULT. THAT'S ACTUALLY
4 KIND OF WHAT I THOUGHT WE WERE GOING TO DO, AND THEN
5 SOMEWHERE IN THAT CONVERSATION I THOUGHT I HEARD THE 15 DAYS
6 HAD TO BE IMPLEMENTED. SO --

7 CHAIRMAN PENNINGTON: OR CAN YOU PUT IT OUT FOR A
8 LONGER PERIOD?

9 MEMBER JONES: OR JUST DO THE WORK, AND THEN WE'LL
10 START THE 15 WHEN IT GETS BACK? IF THAT'S --

11 CHAIRMAN PENNINGTON: OKAY, THAT'S FINE WITH ME.

12 MEMBER JONES: -- IF THAT WORKS. THAT'S THE
13 MOTION.

14 CHAIRMAN PENNINGTON: SURE. OKAY.

15 MEMBER JONES: WE'RE INSTRUCTING STAFF TO DO THE
16 SMARA, THE --

17 MS. TOBIAS: S-M-A-R-A.

18 MEMBER JONES: IT IS THE MINE --

19 MS. TOBIAS: SURFACE MINING AND RECLAMATION ACT.

20 MEMBER JONES: -- SURFACE MINING -- THAT'S SENATOR
21 ROBERTI'S --

22 MEMBER ROBERTI: NO, I DIDN'T CALL IT SMARA, BUT -
23 -

24 CHAIRMAN PENNINGTON: BECAUSE WE DON'T KNOW WHEN

CALIFORNIA SHORTHAND REPORTING

1 IT'S GOING TO BE --

2 (THE PARTIES SIMULTANEOUSLY SPEAK.)

3 MEMBER JONES: -- TO GET THAT WORK DONE, AND THEN
4 BRING IT BACK ALONG WITH THE -- AN ITEM THAT WE CAN FURTHER
5 GO THROUGH THESE REGS. AND MAYBE AT THAT POINT WE CAN GO
6 OUT FOR THE FINAL 15 DAYS.

7 CHAIRMAN PENNINGTON: MS. KELLY WAS HOPING THAT IT
8 WAS A CANDY BAR.

9 MEMBER JONES: I THINK IT IS, ISN'T IT, OR
10 SOMETHING LIKE THAT?

11 CHAIRMAN PENNINGTON: WE NEED A SECOND ON THIS.

12 MEMBER FRAZEE: I'LL SECOND.

13 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
14 MR. JONES TO HAVE THE STAFF DEVELOP MORE INFORMATION ON THE
15 SMARA, AND START A 15-DAY COMMENT PERIOD FOLLOWING, BRING IT
16 BACK TO THE BOARD AT A LATER DATE, SECONDED BY MR. FRAZEE.

17 IF THERE'S NO FURTHER DISCUSSION, WILL THE
18 SECRETARY CALL THE ROLL?

19 THE SECRETARY: BOARD MEMBER EATON?

20 MEMBER EATON: AYE.

21 THE SECRETARY: FRAZEE?

22 MEMBER FRAZEE: AYE.

23 THE SECRETARY: JONES?

24 MEMBER JONES: AYE.

CALIFORNIA SHORTHAND REPORTING

1 THE SECRETARY: ROBERTI?

2 MEMBER ROBERTI: AYE.

3 THE SECRETARY: CHAIRMAN PENNINGTON?

4 CHAIRMAN PENNINGTON: AYE.

5 WE'LL TAKE ABOUT A 10-MINUTE BREAK HERE.

6 (OFF THE RECORD; BRIEF RECESS.)

7 ITEM NO. 12: CONSIDERATION OF STAFF RECOMMENDATION ON
8 THE REGIONAL AGENCY FORMATION AGREEMENT BETWEEN THE CITY OF
9 CITRUS HEIGHTS AND THE COUNTY OF SACRAMENTO

10 CHAIRMAN PENNINGTON: OKAY. WE'RE GOING TO NOW
11 MOVE TO CONSIDERATION OF STAFF RECOMMENDATIONS ON THE
12 REGIONAL AGENCY FORMATION AGREEMENT BETWEEN THE CITY OF
13 CITRUS HEIGHTS AND THE COUNTY OF SACRAMENTO.

14 I KNOW THERE ARE SOME PEOPLE HERE FROM LOS
15 ANGELES WHO ARE ANXIOUS TO HEAD TO THE AIRPORT, WE'LL GET TO
16 YOU HERE IN JUST A MINUTE OR TWO, SO THAT WE CAN HOPEFULLY
17 GET YOU OUT OF HERE IN TIME TO GET HOME.

18 SO, LET'S START HERE WITH JUDY FRIEDMAN?
19 KYLE? WHO'S DOING THIS?

20 MR. SCHIAVO: KYLE WILL DO THE PRESENTATION. THIS
21 IS KYLE'S FIRST PRESENTATION, SO.

22 CHAIRMAN PENNINGTON: OH, GOOD, WELCOME.

23 MEMBER JONES: WE'LL BE KIND.

24 MR. POGUE: GOOD AFTERNOON, MR. CHAIRMAN AND BOARD

1 MEMBERS. THE ITEM BEFORE YOU IS CONSIDERATION OF THE
2 REGIONAL AGENCY AGREEMENT BETWEEN THE CITY OF CITRUS HEIGHTS
3 AND THE COUNTY OF SACRAMENTO.

4 THE CITY OF CITRUS HEIGHTS, INCORPORATED
5 EFFECTIVE JANUARY 1, 1997, WAS PREVIOUSLY PART OF THE
6 SACRAMENTO UNINCORPORATED AREA. ALL INTEGRATED WASTE
7 MANAGEMENT PLANNING ELEMENTS FOR THE SACRAMENTO
8 UNINCORPORATED AREA, INCLUDING THE AREA THAT IS NOW THE CITY
9 OF CITRUS HEIGHTS AT THE TIME THOSE ELEMENTS WERE PREPARED
10 AND APPROVED.

11 THIS PROPOSED REGIONAL AGENCY IS BEING
12 ESTABLISHED FOR THE PURPOSE OF CONSOLIDATING INTEGRATED
13 WASTE MANAGEMENT PLANNING AND DIVERSION REPORTING.
14 ADDITIONALLY, THIS REGIONAL AGENCY WILL ELIMINATE THE NEED
15 FOR THE CITY OF CITRUS HEIGHTS TO PREPARE PLANNING
16 DOCUMENTS, AND THE COUNTY OF SACRAMENTO TO AMEND ITS CURRENT
17 PLANNING DOCUMENTS.

18 AS A REGIONAL AGENCY, SACRAMENTO COUNTY AND
19 THE CITY OF CITRUS HEIGHTS MAY SUBMIT ANNUAL REPORTS,
20 DISPOSAL REPORTS, AND OTHER REPORTING DATA AS ONE ENTITY,
21 INSTEAD OF SUBMITTING SEPARATE REPORTS FOR EACH
22 JURISDICTION. THIS WILL FACILITATE ACCURATE TRACKING AND
23 TIMELY REPORTING OF QUARTERLY DISPOSAL TONNAGE.

24 A REGIONAL AGENCY WILL SAVE TIME AND MONEY IN

1 GATHERING INFORMATION AND PREPARING REPORTS, ALLOWING THE
2 CITY AND COUNTY TO CONCENTRATE THEIR EFFORTS ON EFFECTIVELY
3 AND EFFICIENTLY IMPLEMENTING DIVERSION PROGRAMS.

4 STAFF FINDS THAT THE SACRAMENTO COUNTY/CITY
5 OF CITRUS HEIGHTS JOINT POWERS AGREEMENT MEETS THE
6 REQUIREMENTS TO BE DEEMED A REGIONAL AGENCY, AND RECOMMENDS
7 THAT THE BOARD APPROVE THE SACRAMENTO COUNTY/CITY OF CITRUS
8 HEIGHTS JOINT POWERS AUTHORITY AS A REGIONAL AGENCY.

9 THIS CONCLUDES MY PRESENTATION. I'M HAPPY TO
10 ANSWER ANY QUESTIONS. AND, ADDITIONALLY, STEVE HARRIMAN, A
11 REPRESENTATIVE FOR THE CITY OF CITRUS HEIGHTS AND COUNTY OF
12 SACRAMENTO IS AVAILABLE TO ANSWER ANY QUESTIONS YOU MAY
13 HAVE. THANK YOU.

14 CHAIRMAN PENNINGTON: THANK YOU. GOOD
15 PRESENTATION.

16 ANY STAFF QUESTIONS, QUESTIONS OF STAFF?

17 MEMBER ROBERTI: THIS SEEMS RELATIVELY *PRO FORMA*,
18 AS WELL --

19 CHAIRMAN PENNINGTON: IT WOULD BE ON THE CONSENT
20 CALENDAR.

21 MEMBER ROBERTI: I WOULD MOVE THE ADOPTION OF
22 RESOLUTION -- WHAT NUMBER ARE WE HERE?

23 CHAIRMAN PENNINGTON: ON 99-20.

24 MEMBER FRAZEE: -- 43.

1 (THE PARTIES SIMULTANEOUSLY SPEAK.)

2 MEMBER ROBERTI: -- THREE, SO MOVED.

3 MEMBER FRAZEE: YES, I'LL SECOND.

4 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
5 SENATOR ROBERTI, AND SECONDED BY MR. FRAZEE, THE ADOPTION OF
6 RESOLUTION 99-20. ANY FURTHER DISCUSSION?

7 CHAIRMAN PENNINGTON: I'M SORRY, I'M LOOKING AT
8 THE WRONG PAGE, 99-43 -- I'M TRYING TO GET AHEAD OF MYSELF.

9 IF THERE'S NO FURTHER DISCUSSION, WILL THE
10 SECRETARY CALL THE ROLL?

11 THE SECRETARY: BOARD MEMBER EATON?

12 MEMBER EATON: AYE.

13 THE SECRETARY: FRAZEE?

14 MEMBER FRAZEE: AYE.

15 THE SECRETARY: JONES?

16 MEMBER JONES: AYE.

17 THE SECRETARY: ROBERTI?

18 MEMBER ROBERTI: AYE.

19 THE SECRETARY: CHAIRMAN PENNINGTON?

20 CHAIRMAN PENNINGTON: AYE.

21 MOTION CARRIES.

22 ITEM NO. 14: CONSIDERATION OF STAFF RECOMMENDATION ON
23 THE ADEQUACY OF THE AMENDED NON-DISPOSAL FACILITY ELEMENT
24 FOR INCORPORATED TULARE COUNTY

1 CHAIRMAN PENNINGTON: WE WILL NOW MOVE TO ITEM
2 14, CONSIDERATION OF STAFF RECOMMENDATION ON THE ADEQUACY OF
3 THE AMENDED NON-DISPOSAL FACILITY ELEMENT FOR UNINCORPORATED
4 TULARE COUNTY. PAT?

5 MR. SCHIAVO: THIS PRESENTATION WILL BE MADE BY
6 DIANE SCHIMIZU, WHO IS JUST NOW ARRIVING.

7 CHAIRMAN PENNINGTON: GOOD. THANK YOU.

8 MS. SCHIMIZU: GOOD AFTERNOON, CHAIRMAN PENNINGTON
9 AND BOARD MEMBERS. ITEM NO. 14 IS STAFF'S FINDING ON THE
10 ADEQUACY OF THE AMENDED NON-DISPOSAL FACILITY ELEMENT, OR
11 NDFE, FOR UNINCORPORATED TULARE COUNTY.

12 THE COUNTY'S NDFE HAS BEEN AMENDED TO REFLECT
13 THE COUNTY'S SEVEN EXISTING TRANSFER STATIONS, AS WELL AS
14 THE PROPOSED EARLIMART TRANSFER STATION. ALSO ADDED TO THE
15 AMENDED NDFE ARE WOOD INDUSTRIES COMPANY, A COMPOSTING
16 FACILITY, AND SUNSET WASTE PAPER, A MATERIALS RECOVERY
17 FACILITY.

18 STAFF ANALYZED THE AMENDED NDFE AND FOUND
19 THAT IT COMPLIES WITH STATUTORY AND REGULATORY REQUIREMENTS.
20 THEREFORE, STAFF RECOMMEND APPROVAL OF UNINCORPORATED
21 TULARE COUNTY'S NDFE.

22 THIS CONCLUDES MY PRESENTATION. DO YOU HAVE
23 ANY QUESTIONS FOR ME?

24 CHAIRMAN PENNINGTON: ANY QUESTIONS FOR STAFF?

1 A MOTION HAS BEEN MADE BY MEMBER FRAZEE, SECONDED
2 BY MR. EATON, THE ADOPTION OF RESOLUTION 99-20.

3 IF THERE'S NO FURTHER DISCUSSION, WILL THE
4 SECRETARY CALL THE ROLL, PLEASE?

5 THE SECRETARY: BOARD MEMBER EATON?

6 MEMBER EATON: AYE.

7 THE SECRETARY: FRAZEE?

8 MEMBER FRAZEE: AYE.

9 THE SECRETARY: JONES?

10 MEMBER JONES: AYE.

11 THE SECRETARY: ROBERTI?

12 MEMBER ROBERTI: AYE.

13 THE SECRETARY: CHAIRMAN PENNINGTON?

14 CHAIRMAN PENNINGTON: AYE.

15 MOTION CARRIES.

16 ITEM NO. 15: CONSIDERATION OF ADOPTION OF A COMPLIANCE
17 ORDER RELATIVE TO THE BIENNIAL REVIEW FINDINGS FOR THE
18 SOURCE REDUCTION AND RECYCLING ELEMENT FOR THE CITY OF
19 HAWTHORNE, LOS ANGELES COUNTY

20 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM 15,
21 CONSIDERATION OF ADOPTION OF A COMPLIANCE ORDER RELATIVE TO
22 THE BIENNIAL REVIEW FINDINGS FOR THE SOURCE REDUCTION AND
23 RECYCLING ELEMENT FOR THE CITY OF HAWTHORNE IN LOS ANGELES
24 COUNTY.

1 MR. SCHIAVO: AND THIS PRESENTATION WILL BE MADE
2 BY GARY COLLORD.

3 CHAIRMAN PENNINGTON: OKAY.

4 MR. COLLORD: GOOD AFTERNOON, CHAIRMAN PENNINGTON
5 AND MEMBERS OF THE BOARD.

6 AT IT'S DECEMBER 15TH, 1998, MEETING THE
7 BOARD CONDUCTED A BIENNIAL REVIEW OF THE CITY OF HAWTHORNE'S
8 SRRE. THE PURPOSE OF THE BIENNIAL REVIEW WAS TO DETERMINE
9 WHETHER OR NOT THE CITY HAD ADEQUATELY IMPLEMENTED THE SRRE,
10 AND ACHIEVED THE 1995 DIVERSION REQUIREMENTS, AND IF NOT,
11 WHETHER THE ISSUANCE OF A COMPLIANCE ORDER WAS WARRANTED.

12 THE BOARD CONSIDERED A NUMBER OF ISSUES IN
13 ITS REVIEW, INCLUDING THE NATURE AND NUMBER OF DIVERSION
14 PROGRAMS IMPLEMENTED BY THE CITY, THE CITY'S REPORTED
15 DIVERSION RATE, A DISPUTE OVER THE DISPOSAL STATUS OF A
16 LARGE AMOUNT OF CONSTRUCTION AND DEMOLITION DEBRIS DURING
17 THE BASE YEAR, AND WHETHER THE CITY HAD DEMONSTRATED A GOOD-
18 FAITH EFFORT TO IMPLEMENT THE SRRE.

19 THE BOARD DETERMINED THAT, BASED ON AVAILABLE
20 INFORMATION, THE CITY HAD NOT ADEQUATELY IMPLEMENTED ITS
21 SRRE, HAD NOT ACHIEVED THE 1995 DIVERSION REQUIREMENT, AND
22 HAD NOT DEMONSTRATED A GOOD-FAITH EFFORT TO IMPLEMENT THE
23 SRRE.

24 THE BOARD DIRECTED STAFF TO DRAFT A

1 COMPLIANCE ORDER WITH SPECIFIC CONDITIONS FOR ACHIEVING
2 COMPLIANCE FOR THE BOARD'S CONSIDERATION AT TODAY'S MEETING.

3 THE BOARD ALSO GRANTED HAWTHORNE AN ADDITIONAL 30 DAYS TO
4 RESPOND TO SPECIFIC ISSUES OUTLINED IN STAFF'S LETTER OF
5 SEPTEMBER 16TH, 1998, DURING THIS INTERIM PERIOD.

6 THE CITY RESPONDED TO STAFF'S INQUIRIES ON
7 JANUARY 15TH, 1999. IN THE RESPONSE THE CITY CLARIFIED THE
8 STATUS OF ITS DIVERSION PROGRAMS AND IDENTIFIED THREE
9 ADDITIONAL DIVERSION PROGRAMS, INCLUDING PROMOTION OF
10 DROUGHT-TOLERANT LANDSCAPING, TIRE REUSE ON CITY VEHICLES,
11 AND A COMMERCIAL RECYCLING ORDINANCE. THE CITY ALSO
12 SUFFICIENTLY EXPLAINED THE REASONS WHY MANY OF THE SRRE
13 PROGRAMS WERE NOT IMPLEMENTED AS ORIGINALLY PLANNED.

14 THE CITY, HOWEVER, WAS UNABLE TO LOCATE ANY
15 DEFINITIVE RECORDS TO CONFIRM WHETHER THE 53,000 TONS OF C&D
16 MATERIAL WAS DISPOSED OR DIVERTED, ALTHOUGH THE CITY FIRMLY
17 BELIEVES THE MATERIAL WAS DISPOSED, BASED ON DISPOSAL
18 PRACTICES IN EFFECT AT THE TIME.

19 THE CITY ALSO DID NOT PROVIDE ANY ADDITIONAL
20 INFORMATION ABOUT THE AMOUNT OF RECYCLABLE MATERIALS OR
21 COMPOST DIVERTED BY THE FRANCHISE HAULER, AND THIS
22 INFORMATION WOULD BE VERY HELPFUL IN HELPING STAFF CONFIRM
23 THE ACCURACY OF THE REPORTED DIVERSION RATE, AND THE
24 ADEQUACY OF THE CITY'S DIVERSION PROGRAMS.

1 ALTHOUGH THE CITY PROVIDED A THOROUGH
2 RESPONSE TO MOST OF THE ISSUES RAISED IN STAFF'S LETTER, THE
3 NUMBER AND NATURE OF THE CITY'S DIVERSION PROGRAMS,
4 INCLUDING THE THREE ADDITIONAL PROGRAMS, STILL DO NOT APPEAR
5 TO SUPPORT THE DIVERSION RATES REPORTED BY THE CITY.

6 AS PREVIOUSLY NOTED, THE CITY REMAINS UNABLE
7 TO CONFIRM THE DISPOSAL, OR DIVERSION STATUS OF THE 53,000
8 TONS OF C&D MATERIAL, AND HAS PROVIDED NO ADDITIONAL
9 INFORMATION ABOUT THE AMOUNT OF MATERIAL DIVERTED THROUGH
10 ITS VARIOUS DIVERSION PROGRAMS. AS A RESULT, STAFF BELIEVES
11 THE ADOPTION OF A COMPLIANCE ORDER FOR HAWTHORNE IS STILL
12 WARRANTED.

13 FOR THE LAST WEEK OR SO, THE CITY HAS BEEN
14 WORKING WITH BOARD STAFF AND NOW, APPARENTLY, ACKNOWLEDGES
15 THE NEED TO IMPLEMENT ADDITIONAL PROGRAMS, AND AGREES THAT
16 THE SRRE SHOULD BE REVISED, WITH THE BOARD'S ASSISTANCE, TO
17 INCLUDE A MORE EFFECTIVE SCHEDULE OF PROGRAMS.

18 IN LIGHT OF THIS ADDITIONAL INFORMATION,
19 STAFF BELIEVES IT'S APPROPRIATE TO MODIFY THE PROPOSED
20 COMPLIANCE ORDER CONDITIONS. IN PARTICULAR, THE STAFF
21 BELIEVES THE PROPOSED CONDITION TO REQUIRE THE CITY TO
22 REVISE ITS WASTE GENERATION STUDY SHOULD BE DROPPED.

23 AS AN ALTERNATIVE, STAFF RECOMMENDS THAT THE
24 BOARD EITHER ALLOW THE CITY TO REMOVE THE DISPUTED 53,000

1 TONS OF C&D MATERIAL IN LIEU OF REQUIRING A NEW BASE YEAR
2 STUDY, OR ACCEPT THE CITY'S WASTE GENERATION FIGURES AS
3 ORIGINALLY REPORTED IN THE SRRE.

4 IN EITHER CASE, STAFF RECOMMENDS THAT AN
5 ADDITIONAL CONDITION BE ADDED TO THE ORDER WHICH REQUIRES
6 THE CITY TO EXECUTE A MUTUALLY-ACCEPTABLE PERFORMANCE PLAN
7 WITH MEASURABLE DIVERSION PROGRAM OBJECTIVES WITH THE BOARD
8 BY MARCH 31ST OF 1999. SHOULD THE CITY AND STAFF BE UNABLE
9 TO AGREE ON A MUTUALLY-ACCEPTABLE PLAN, STAFF WILL SEEK
10 FURTHER DIRECTION FROM THE BOARD.

11 ARE THERE ANY QUESTIONS FOR STAFF?

12 CHAIRMAN PENNINGTON: QUESTIONS FOR STAFF? MR.
13 FRAZEE.

14 MEMBER FRAZEE: ARE THOSE CHANGES REFLECTED IN THE
15 COMPLIANCE ORDER AS IT'S SUBMITTED, OR ARE THOSE --

16 MR. COLLORD: NO, THEY'RE NOT.

17 MEMBER FRAZEE: DO YOU HAVE A COPY OF THOSE
18 ANYWHERE?

19 MR. COLLORD: NOT OFFICIALLY DRAFTED YET. WE
20 WOULD HAVE TO WORK ON THAT.

21 MEMBER EATON: MR. CHAIR?

22 CHAIRMAN PENNINGTON: MR. EATON.

23 MEMBER EATON: JUST FOR CLARIFICATION, THE OPTIONS
24 FOR US IN DROPPING THE CHARACTERIZATION STUDY IS EITHER --

1 IS IT A CONDITION -- IF WE ACCEPT -- LET ME TRY AND RESTATE
2 THIS. IF WE DROP THE CHARACTERIZATION STUDY REQUIREMENT
3 THAT WAS IN OUR BINDER, THEN WE HAVE THE OPTION OF SAYING
4 THE 53,000 TONS APPLIES. CORRECT?

5 MR. COLLORD: RIGHT.

6 MEMBER EATON: OR WE HAVE THE OPTION OF SAYING IT
7 DOESN'T APPLY.

8 MR. COLLORD: CORRECT.

9 MEMBER EATON: IS STAFF RECOMMENDING AT ALL THAT
10 IF WE CHOOSE THE FIRST OPTION, THE 53,000 AND THE STUDY IS
11 DROPPED, BUT IF WE DON'T ACCEPT THE 53,000 THEN THE
12 CHARACTERIZATION STUDY SHOULD BE DONE?

13 MR. COLLORD: IF THE 53,000 TONS IS DROPPED THEN
14 THE CALCULATION, DIVERSION CALCULATION WOULD BE ABOUT 14
15 PERCENT IN THE BASE YEAR, WHICH SEEMS TO BE A LOT MORE
16 CONSISTENT WITH WHAT THE PROGRAM IMPLEMENTATION LEVELS ARE.

17 IF WE LEAVE THE 53,000 TONS IN, THEN THE CALCULATION IS
18 THAT 48 PERCENT, WHICH WE BELIEVE IS SOMEWHAT HIGH.

19 IN DISPUTE IS, IS THE INFORMATION THAT THE
20 JURISDICTION PROVIDED TO US ADEQUATE ENOUGH, AND --

21 MEMBER EATON: SO STAFF IS JUST DROPPING THE
22 CHARACTERIZATION STUDY.

23 MR. COLLORD: YES.

24 MEMBER EATON: BUT NOT CONDITIONED UPON WHETHER WE

1 ACCEPT THE 53,000, OR NOT.

2 MR. COLLORD: RIGHT. CORRECT.

3 MEMBER EATON: I JUST WANT TO TRY AND GET IT
4 CLEAR, BECAUSE I'M --

5 MR. COLLORD: YEAH.

6 MEMBER EATON: OKAY. AND THAT -- AND THE BASIS OF
7 THAT IS JUST ONE OF, WHAT, RESOURCES OR IT WOULDN'T BE
8 REALLY --

9 MR. COLLORD: RESOURCES --

10 MEMBER EATON: -- OUR CALL AT THAT POINT?

11 MR. COLLORD: YEAH.

12 MEMBER EATON: OKAY. I JUST KIND OF WANTED TO GET
13 CLARITY ON THAT.

14 MEMBER FRAZEE: I'M JUST GOING TO COMMENT, I THINK
15 YOU MISSPOKE WHEN YOU SAID CHARACTERIZATION STUDY.

16 MEMBER EATON: YEAH, ITS GENERATION.

17 MEMBER FRAZEE: IT'S GENERATION, RIGHT.

18 MEMBER JONES: MR. CHAIRMAN?

19 CHAIRMAN PENNINGTON: YES, MR. JONES.

20 MEMBER JONES: THE IDEA OF -- WELL, I'VE MET WITH
21 THE CITY, I'VE MET WITH STAFF -- WELL, MAYBE WE ALL HAVE, OR
22 I DON'T KNOW IF WE ALL HAVE -- AND, BUT ONE OF THE ISSUES
23 WAS WE HAVE -- WE ARE CONSTANTLY WORKING ON TRYING TO
24 CLARIFY NUMBERS DOWN IN SOUTHERN CALIFORNIA, AND IT IS A

1 UNIQUE SITUATION WHEN WE TRY TO DO THAT. AND I GET A LITTLE
2 BIT CRAZY.

3 BUT, BY THE SAME TOKEN, THE CONSULTANT THAT
4 DID THIS JOB I THINK IS A DIFFERENT CONSULTANT THAN WE
5 NORMALLY SEE ON A LOT OF THESE ISSUES, AND THEY'RE USUALLY
6 THE OPPOSITE WAY.

7 SO, THIS IS VERY SIMILAR TO A JURISDICTION
8 THAT HAD A CO-GENERATION PLANT IN ITS BOUNDARIES, AND THAT
9 ASH WAS BEING LANDFILLED, AND NOW THE COGEN PLANT GOES DOWN,
10 THE ASH DOESN'T GO INTO THE FACILITY ANYMORE, THEY GET
11 DIVERSION CREDIT BECAUSE THEY'VE GOT THAT HIGHER -- THEY GET
12 THE BENEFIT OF SHUTTING DOWN AN INDUSTRY.

13 WE PROBABLY -- ONE OF MY SUGGESTIONS WAS THAT
14 THE BENEFIT OF THE DOUBT SHOULD GO TO THE CITY ON THE WASTE
15 GENERATION STUDY IF PROGRAMS ARE IMPLEMENTED, IF PROGRAMS
16 ARE DONE, AND DONE NOT JUST IN AN CURSORY MODE BUT
17 AGGRESSIVELY, SO THAT THE INTENT OF AB 939 PROGRAMS AND
18 DIVERSION, AND CHANGING PEOPLE'S LIFE, YOU KNOW, AND DOING
19 ALL THOSE TYPES OF THINGS IS ACHIEVED.

20 AND I WOULD SUGGEST, RATHER THAN DROP THE
21 WASTE GENERATION, WE COULD HOLD IT IN ABEYANCE AS ONE OF OUR
22 OPTIONS IF WE'RE NOT SATISFIED THAT, IN FACT, PROGRAMS ARE
23 BEING SUCCESSFUL. AND MAYBE WE NEED TO LOOK AT THE
24 GENERATION EFFECTIVE AT SOME DATE AND SEE HOW THE PLAN WOULD

1 WORK.

2 BUT I THINK IT'S UNFAIR TO -- WELL, I DON'T
3 WANT TO SAY THAT BECAUSE.... BUT, I'M WILLING TO GIVE THE
4 BENEFIT OF THE DOUBT, WITH THAT -- WITH THE IDEA THAT THEY
5 WORK WITH STAFF, MUTUALLY ACCEPTABLE, IN MY MIND, NEEDS TO
6 HAVE A PRECURSOR ON IT THAT SAYS GOOD FAITH. AND WHAT IS
7 MUTUALLY ACCEPTABLE TO ME IS A LOT OF PROGRAMS, NOT JUST A
8 CURSORY REVIEW.

9 AND I WAS IN DISCUSSIONS WITH THE CITY, THE
10 CITY MANAGER, AND MAYBE WE NEED HIM TO COME UP HERE AND JUST
11 AFFIRM THAT IT WILL TILT IN OUR DIRECTION, YOU KNOW, I MEAN,
12 AS FAR AS PLANS GO, SO THAT WE'RE SURE THAT WE'RE GOING TO
13 ACHIEVE WHAT NEEDS TO BE ACHIEVED, AND WHAT IS THE HEART OF
14 THE LAW.

15 CHAIRMAN PENNINGTON: WELL, WE HAVE A COUPLE OF
16 SPEAKERS HERE.

17 MR. CORMIER: GOOD AFTERNOON, MR. CHAIRMAN AND
18 MEMBERS OF THE BOARD. LET ME BEGIN BY, FIRST OF ALL,
19 THANKING YOU FOR YOUR COURTESY OVER THE LAST FEW --

20 CHAIRMAN PENNINGTON: WHY DON'T YOU TELL HER WHO
21 YOU ARE?

22 MR. CORMIER: I'M BUD CORMIER, I'M THE CITY
23 MANAGER FOR THE CITY OF HAWTHORNE.

24 I'D ALSO LIKE TO THANK THE STAFF FOR THEIR

1 COURTESY, BECAUSE THEY'VE WORKED WITH US VERY WELL OVER THE
2 LAST COUPLE OF DAYS.

3 I WOULD CONCUR WITH EVERYTHING THAT BOARD
4 MEMBER JONES JUST SAID, I DON'T HAVE A PROBLEM WITH THAT AT
5 ALL.

6 I DO WANT TO -- BECAUSE I PROMISED THEM I
7 WOULD -- MY COUNCIL ASKED ME TO CONVEY TO YOU IN THE
8 STRONGEST POSSIBLE TERMS, UNEQUIVOCALLY, THAT THEY WANT TO
9 WORK TO THE SATISFACTION OF THE BOARD. I HOPE YOU BELIEVE
10 THAT BECAUSE IT'S TRUE. AND, I'LL SAY THE SAME THING FOR
11 THE ENTIRE MANAGEMENT STAFF OF THE CITY OF HAWTHORNE.

12 WE ARE PERFECTLY WILLING -- IN FACT, WE HAVE
13 MADE ARRANGEMENTS -- EVEN TODAY HAD TALKED TO SOME PEOPLE
14 FROM YOUR LOCAL ASSISTANCE TEAM THAT ARE COMING DOWN IN
15 EARLY FEBRUARY TO GIVE US A HAND. WE'RE VERY, VERY WILLING
16 TO WORK WITH YOUR STAFF, AND REPORT BACK SOMETHING
17 ACCEPTABLE TO THEM AND TO US, ON MARCH 31ST. AND I FEEL
18 VERY GOOD THAT THAT'S ACHIEVABLE. MY STAFF PEOPLE WILL BE
19 AVAILABLE 100 PERCENT OF THE TIME THAT THEY'RE NEEDED TO BE
20 FOR THIS PURPOSES.

21 WE DID OBJECT, AND WE DO OBJECT, AND WE HOPE
22 YOU WON'T DEPRIVE US OF THE 53,000 TONS BECAUSE WE RELIED ON
23 THAT. I MEAN, WE HAVE NO REASON TO BELIEVE THAT THAT IS A
24 BAD NUMBER. WE HAVE SOME GOOD REASON TO BELIEVE -- ALTHOUGH

1 IT'S NOT OVERWHELMING -- WE HAVE SOME GOOD REASON TO BELIEVE
2 THAT IT'S A GOOD NUMBER, NOBODY'S EVER SHOWN US ANYTHING TO
3 MAKE US SUSPECT THE NUMBER.

4 UNFORTUNATELY, AS YOU MAY HAVE HINTED, MR.
5 JONES, WE DID HAVE A CONSULTANT ON BOARD SEVERAL YEARS AGO.

6 WHEN THIS WHOLE ISSUE CAME UP A COUPLE OF MONTHS AGO WE
7 WENT TO HIM TO TRY AND FIND THE DOCUMENTATION, AND WE WERE
8 TOLD BY THIS FIRM THAT AFTER FIVE YEARS HAD ELAPSED THEY
9 DESTROYED ALL THEIR DOCUMENTATION.

10 WE DID A THOROUGH INVESTIGATION OF OUR OWN
11 FILES, WE WENT BACK, WE TALKED TO THE ORIGINAL CONTRACTOR,
12 WHERE 42,000 ROUGHLY OF THIS IS CONCERNED. WE GOT WHATEVER
13 INFORMATION WE COULD AND WE PASSED IT ON TO YOU.

14 AGAIN, WE DIDN'T FIND ANYTHING TO DISPUTE THE
15 NUMBERS, WE DID FIND SOME SMALL AMOUNT OF EVIDENCE THAT
16 POINTS TO THE VALIDITY OF NUMBERS. SO, THAT'S WHERE WE'RE
17 AT.

18 CHAIRMAN PENNINGTON: ANY QUESTIONS? OKAY, THANK
19 YOU.

20 ROB BERNHEIMER.

21 MR. CORMIER: MR. CHAIRMAN, WHILE HE'S COMING UP -
22 -

23 CHAIRMAN PENNINGTON: YES?

24 MR. CORMIER: I WONDER WHAT THE -- CAN SOMEONE

1 TELL ME THE SOURCE OF THIS DOCUMENT?

2 CHAIRMAN PENNINGTON: YEAH, THAT'S FROM JERRY
3 JAMGOTCHIAN, WHO'S GOING TO COME AFTER HIM.

4 MR. CORMIER: I JUST WANT TO MAKE A POINT HERE,
5 MR. CHAIRMAN, ABOUT MATERIAL THAT'S DISTRIBUTED TO US, AND
6 IT ACTUALLY COMES INTO FORMAL EVIDENCE WITHOUT ANY
7 IDENTIFYING MARKS AS TO WHO THE PRODUCER OF IT WAS, WHAT THE
8 SLANT IS ON IT OR ANYTHING.

9 IT WOULD -- IN THE METHOD AS PRINTED, IT
10 WOULD TEND TO LEAD YOU TO BELIEVE THAT THIS WAS SOMETHING
11 SUBMITTED BY THE CITY OF HAWTHORNE, AND THEN READING THE
12 CONTENTS I FIND QUITE THE CONTRARY. BUT I JUST THINK THAT
13 WE OUGHT TO BE CAREFUL ABOUT ALLOWING THE DISTRIBUTION OF
14 MATERIAL WITHOUT ANY IDENTIFYING SOURCE ON IT.

15 CHAIRMAN PENNINGTON: YOU'RE CORRECT. I'M
16 FORTUNATE THAT I HAVE THIS THAT SAYS BLUE PACKET.

17 MR. CORMIER: OH, OKAY.

18 CHAIRMAN PENNINGTON: BUT I'M SURE THAT MR.
19 JAMGOTCHIAN WILL FILL US IN.

20 MR. BERNHEIMER: ROB BERNHEIMER WITH FERGUSON &
21 BERNHEIMER, I REPRESENT THE WASTE HAULER AGENCY DISPOSER IN
22 THE CITY OF HAWTHORNE.

23 I DON'T THINK WE NEED TO GO ANY LONGER ON
24 SOME OF THESE ISSUES, I THINK MOST OF THE QUESTIONS HAVE

1 BEEN ANSWERED. I WILL BE AVAILABLE IF, AT THE END OF THIS,
2 THERE ARE ANY QUESTIONS THAT I CAN ANSWER, AND THAT IF ANY
3 OTHER ISSUES NEED TO BE ADDRESSED I'LL BE HAPPY TO DO SO,
4 BUT I THINK MR. CORMIER ADEQUATELY EXPRESSED EVERYTHING.
5 THANK YOU.

6 CHAIRMAN PENNINGTON: VERY GOOD, THANK YOU.

7 JERRY JAMGOTCHIAN. I ONLY ASK THAT WE DON'T
8 GO THROUGH THIS WHOLE THING AND TAKE AN HOUR --

9 MR. JAMGOTCHIAN: YES, I ASSURE YOU I WON'T.

10 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

11 MR. JAMGOTCHIAN: THAT IS A DOCUMENT THAT I
12 PREPARED ON BEHALF OF MYSELF, AND FOR THE BOARD AND BOARD
13 STAFF'S REVIEW.

14 AS I HAVE IN THE PAST, AT THE RECENT HEARING
15 ON THE 15TH OF DECEMBER, I PRESENTED IT TO THE CLERK AND SHE
16 JUST -- I THOUGHT SHE WAS GOING TO DISTRIBUTE IT WHEN I
17 SPOKE. BUT, I'M SORRY, BUT IT IS MY DOCUMENT.

18 THE DOCUMENT PROVIDES -- THE INFORMATION
19 THERE IS PROVIDED BY THE CITY SRRE, AND I JUST WANT TO RUN
20 THROUGH SOME PORTIONS OF IT. AND I LEFT YOU A COMPLETE
21 COPY, SO IF YOU WANT TO REVIEW IT LATER TIME IT'LL BE
22 AVAILABLE FOR YOU.

23 MEMBER FRAZEE: THE POINT I WAS MAKING WAS THAT IT
24 WOULD BE HELPFUL IF YOUR NAME WERE TO APPEAR ON THE DOCUMENT

1 SO WE WOULD BE ABLE TO TIE IT --

2 MR. JAMGOTCHIAN: YES. I'D BE HAPPY TO PROVIDE
3 THAT NEXT TIME.

4 IN THE COMPLIANCE ORDER THAT I TRUST THE
5 BOARD WILL ISSUE TO THE CITY OF HAWTHORNE, I'D LIKE YOU TO
6 CONSIDER THREE FACTORS TO INCLUDE WITHIN THE COMPLIANCE
7 ORDER. THE FIRST FACTOR IS -- AND ALL THESE FACTORS ARE
8 ESSENTIALLY BASED BY THE SRRE THAT THE CITY OF HAWTHORNE
9 COMPLETED IN 1991.

10 THE FIRST ONE IS, REQUIRE THE CITY OF
11 HAWTHORNE TO HIRE -- IT'S THAT YELLOW PIECE OF -- ORANGE
12 PIECE OF PAPER AT THE BACK -- REQUIRE THAT THE CITY HIRE
13 THREE FULL-TIME SOLID WASTE MANAGEMENT PERSONNEL.

14 MR. CORMIER REFERRED TO HIS STAFF. HE
15 DOESN'T HAVE A STAFF, WHEN IT TALKS ABOUT SOLID WASTE
16 MANAGEMENT PERSONNEL. HIS STAFF TO DATE IS THE PLANNING
17 DIRECTOR, WHO IS ALSO THE REDEVELOPMENT DIRECTOR, AND THE
18 PUBLIC WORKS DIRECTOR WHO HAS RECENTLY BEEN SLOTTED INTO
19 THIS POSITION ON A TEMPORARY BASIS.

20 THE SRRE CALLS FOR -- AND I'LL SHOW YOU IN
21 THE SRRE -- THREE FULL-TIME SOLID WASTE MANAGEMENT PEOPLE
22 UNTIL A 25 PERCENT DIVERSION HAS BEEN REACHED. I'LL SHOW
23 YOU WHAT I BELIEVE, AND WHAT STAFF WILL -- AND WHAT THE
24 BOARD WILL AGREE AS, I THINK, AS A TRUE DIVERSION IN THE

1 CITY OF HAWTHORNE.

2 THE SECOND REQUEST IS -- AND WE'LL TALK ABOUT
3 THIS BRIEFLY -- REQUIRING THE CITY OF HAWTHORNE TO ENFORCE
4 TWO PROVISIONS IN THEIR SRRE. AND THE REASON WHY THIS IS
5 IMPORTANT IS BECAUSE THE CITY HAS STATED THAT THE HAULER
6 DOESN'T SUPPLY ANY NUMBERS TO THE CITY, SO HOW CAN THEY
7 SUPPLY ANY NUMBERS TO THE BOARD. AND WE'LL TALK ABOUT THAT
8 BRIEFLY.

9 THE BIG PROBLEM HERE, I THINK, IN THIS MATTER
10 IS THAT THE BOARD STAFF HAS A LOT OF WORK TO DO IN A LOT OF
11 CITIES, AND THEY DON'T GET A LOT OF THE INFORMATION THAT MAY
12 BE TRUTHFUL. IN THIS PARTICULAR CASE, IN THIS PARTICULAR
13 CITY, DOCUMENTATION HAS BEEN PROVIDED THAT'S NOT TRUTHFUL.

14 THE CITY OF HAWTHORNE AND ITS COUNCIL -- WHO
15 ELECTED NOT TO APPEAR ON DECEMBER 15TH, AFTER THE BOARD
16 REQUESTED THEM TO APPEAR, AS WELL AS AFTER THEY SAID THEY
17 WOULD APPEAR -- HAS NOW APPEARED FOR ONE REASON, AND ONE
18 REASON ONLY. THEY'RE CONCERNED ABOUT THE FINES AND THE
19 POTENTIAL THAT THE BOARD COULD CONTINUE TO LOOK AT THEM IN A
20 SCORNFUL WAY.

21 STAFF HAS HUNG IN THERE AND DONE THE BEST
22 THEY CAN TO GET THE CITY OF HAWTHORNE INTO SOME POSITION OF
23 COOPERATION, AND I BELIEVE THAT THEY HAVE. AND THEY DESERVE
24 A LOT OF CREDIT FOR DOING THAT, BECAUSE THE CITY OF

1 HAWTHORNE, AS YOU ALL KNOW, RESPONDED FOUR MONTHS LATE WITH
2 THESE DOCUMENTS. AND THE DOCUMENTS THAT THEY DID SUPPLY
3 WERE SUBSTANDARD AT BEST.

4 THE TIME LINE OF THE DOCUMENT SUBMISSION YOU
5 ALL KNOW ABOUT, SO I'D LIKE TO RUN THROUGH BRIEFLY SOME OF
6 THE HIGHLIGHTS OF THIS PACKAGE.

7 CHAIRMAN PENNINGTON: WHILE YOU'RE DOING THAT, I
8 WOULD LIKE TO POINT OUT THAT THE CITY WASN'T HERE BECAUSE WE
9 TOLD THEM THEY DIDN'T HAVE TO BE HERE.

10 MR. JAMGOTCHIAN: THAT'S FINE. THANK YOU. THEY
11 STILL COULD HAVE MADE THE APPEARANCE, I MEAN....

12 THE FIRST ISSUE IS SRRE -- THE TABLE TWO,
13 TALKING ABOUT FUNDING. THE CITY OF HAWTHORNE'S PROGRAMS
14 HAVE BEEN FULLY FUNDED SINCE 1992. AND CURRENTLY THE
15 CITIZENS OF HAWTHORNE PAY \$448,000 A YEAR FOR RECYCLING.
16 THE CAPITAL COSTS OF \$799,000 WERE FULLY PAID. AND, SO THE
17 CITIZENS OF HAWTHORNE ARE CURRENTLY PAYING FOR RECYCLING
18 \$63,000 MORE A YEAR THAN THE SRRE REQUESTED. THAT'S TABLE
19 TWO OF THE SRRE.

20 ALL THESE TABLES, BOARD MEMBER FRAZEE, COME
21 FROM THE SRRE, A COPY OF THE SRRE.

22 NOW, RECORD KEEPING IS AN IMPORTANT ISSUE.
23 THE RECORD KEEPING IS VERY IMPORTANT, AS YOU ALL ARE AWARE,
24 BECAUSE STAFF CAN'T DO THEIR JOB WITHOUT RECORDS. THE SRRE

1 IN THIS SECTION REQUIRES -- SECTION 3611, THAT THE HAULER
2 WILL BE REQUIRED TO KEEP RECORDS AND REPORT TO THE CITY
3 QUARTERLY. JUST KEEP THAT IN MIND, AND WE'LL CONTINUE.

4 AGENCY DISPOSALS CONTRACT SAYS, IN ARTICLE
5 10, ON PAGE 10, THAT THE CONTRACTOR AGREES TO OBEY OUR LAWS
6 AND COMPLY WITH OUR ORDINANCES, AND RESOLUTIONS, AND RULES,
7 AND REGULATIONS ADOPTED BY THE CITY IN THE PERFORMANCE OF
8 THE AGREEMENT.

9 YET, IN MR. CORMIER'S LETTER OF JANUARY 15TH,
10 HE STATES -- THIS IS HIS LETTER THAT'S PROBABLY CONTAINED IN
11 YOUR PACKAGE -- THAT AS THE WASTE HAULER AGENCY IS NOT
12 REQUIRED TO REPORT DIVERSION AND/OR RECYCLING ACTIVITY TO
13 THE CITY. NOW, THIS IS HIS LETTER TO THE BOARD JANUARY
14 15TH.

15 HOW CAN YOU EXPECT BOARD STAFF TO DO ANY
16 DIVERSION REVIEW IF THE HAULER ISN'T PROVIDING RECYCLING
17 INFORMATION TO THE CITY?

18 FURTHER, THE RECYCLING ORDINANCE IN THE CITY
19 OF HAWTHORNE HAS A REPORTING REQUIREMENT ON THE RECYCLERS.
20 WELL, IF YOU LOOK AT THE PARAGRAPH THAT'S HIGHLIGHTED ON THE
21 BOTTOM OF NUMBER FOUR IN MR. CORMIER'S LETTER, IT SAYS:
22 "DUE TO THE DISPOSAL BASE REPORTING SYSTEM IN PLACE FOR AB
23 939, AND THE RELUCTANCE OF COMMERCIAL RECYCLERS TO PROVIDE
24 INFORMATION, THE CITY IS CONSIDERING DROPPING THE REPORTING

1 REQUIREMENT."

2 NOW, WHAT GOOD IS THAT? IF THERE'S NOT GOING
3 TO BE REPORTING BY THE HAULER, AND THERE'S NOT GOING TO BE
4 REPORTING BY THE RECYCLERS, WHAT KIND OF REPORTING IS THE
5 BOARD GOING TO GET?

6 IN 1991 THE HAULER WAS REQUESTED TO DO A
7 REPORT ON DIVERSION. SECTION 2332 OF THE SRRE, TO DATE, THE
8 SRRE'S FRANCHISE HAULER HAS STILL NEVER REPORTED ANY
9 DIVERSION OF ANY MATERIALS.

10 ADDITIONALLY, SECTION 9.3 OF THE SRRE STATES:
11 "ADDITIONAL CITY STAFF RESOURCES. THE CITY WILL NEED A
12 TOTAL OF THREE FULL-TIME EQUIVALENT STAFF FOR SOLID WASTE
13 MANAGEMENT." IN 1991, NO STAFF MEMBERS WERE EXCLUSIVELY
14 DESIGNATED FOR SOLID WASTE MANAGEMENT. THAT'S SRRE SECTION
15 9.3.

16 SRRE TABLE 9.2 -- EXCUSE ME, 1.2 SHOWS THAT
17 THREE SOLID WASTE MANAGEMENT PEOPLE SHOULD BE IN PLACE. TO
18 DATE THERE STILL AREN'T THREE PEOPLE IN PLACE, AND THE
19 PERSON THAT'S IN CHARGE IS ALSO THE REDEVELOPMENT DIRECTOR
20 AND THE PLANNING DIRECTOR.

21 AND, ONCE AGAIN I STRESS THAT ALL THESE
22 PROGRAMS HAVE BEEN FULLY FUNDED SINCE 1991, AND \$4.2 MILLION
23 HAS BEEN PAID BY THE CITY OF HAWTHORNE TO THE AGENCY
24 DISPOSAL COMPANY FOR RECYCLING.

1 ADDITIONALLY, 461, MONITORING METHODS AND
2 OBJECTIVES IN THE SRRE REQUIRE THE HAULER TO KEEP RECORDS,
3 AND THAT IS IN HERE, YOU CAN REVIEW ALSO.

4 NOT TO MENTION PROGRAM FOLLOW-UP BY THE CITY,
5 THAT'S SRRE SECTION 3612.

6 I GUESS THE NEXT QUESTION YOU SHOULD ASK
7 YOURSELF IS WHY ISN'T THE CITY PROVIDING OVERSIGHT OF THE
8 HAULER. WELL, IT'S VERY EASY. AND, I'VE ADDRESSED THIS TO
9 THE BOARD BEFORE.

10 TWENTY-FIVE PERCENT, OR TWO AND A HALF
11 MILLION DOLLAR-PER-YEAR FRANCHISE FEE. THIS CITY WILL DO
12 WHATEVER IT TAKES TO PROTECT THIS HAULER, BECAUSE THE
13 GENERAL FUND OF THIS CITY CANNOT LOSE TWO AND A HALF MILLION
14 DOLLARS.

15 IN FACT, IT'S QUITE INTERESTING THAT THE
16 CITY'S LEGAL COUNSEL ISN'T EVEN HERE.

17 THAT PROJECTION IS FURTHER EVIDENCED BY THE
18 LOS ANGELES DISTRICT ATTORNEY'S OFFICE ADVISING MR. CORMIER,
19 THE CITY MANAGER, THAT AGENCY -- HIS WORDS WERE: "THE CITY
20 COULD BE A VICTIM OF A THREAT PERPETRATED BY AGENCY
21 DISPOSAL." THE LETTER'S IN YOUR PACKAGE, DATED NOVEMBER
22 13TH, 1996.

23 NOVEMBER 27TH, 1996, MR. CORMIER STATES HE'S
24 -- THAT, QUOTE: "I'M PRETTY WELL SATISFIED THAT THERE'S

1 NOTHING WRONG."

2 LITIGATION PURSUES. I PURSUED LITIGATION
3 AGAINST THE HAULER IN THE NAME OF THE CITY IMPROPERLY
4 (INDISC.) ACTION, AGENCY PAYS THE CITY AND MY ATTORNEY
5 \$284,000 OUT OF 864,000 THAT THE CITY IMPROPERLY PAID AGENCY
6 FOR DUMP FEES WHICH THEY NEVER PAID. THE ARTICLE'S IN
7 THERE, IT'S ENTITLED (INDISC.) DUMPS HAWTHORN SUIT. THE
8 AGENCY ADMITTED TO KNOWINGLY FILING FALSE CLAIMS AND
9 INVOICES TO THE CITY OF HAWTHORNE. SO, A WHISTLE-BLOWER'S
10 LAW SUIT.

11 FURTHER, THE CITY, IN THEIR SPIRIT OF
12 RECYCLING, FILES LITIGATION AGAINST PEOPLE THAT WANT TO
13 RECYCLE. THERE'S A LAW SUIT IN YOUR PACKAGE, IT'S FILED IN
14 1996. THE BASIS OF THE LAW SUIT ISN'T VIOLATION OF THE
15 RECYCLING ACT, IT'S ECONOMIC ADVANTAGE AND (INDISC.)
16 INTERFERENCE WITH THE HAULER. SO, WE'RE NOT TALKING ABOUT
17 RECYCLING HERE, I BELIEVE WE'RE TALKING ABOUT AN ECONOMIC
18 ADVANTAGE AND THE CITY'S PROTECTION OF AGENCY AS THEIR
19 ECONOMIC ADVANTAGE.

20 I SHARED WITH YOU LAST MEETING A DEPOSITION
21 OF (INDISC.) MR. RICHARD MANSFIELD (PHON), WHO'S IN THE
22 AUDIENCE, WHERE HE STATED -- OR, MY ATTORNEY ASKED HIM,
23 (PRESUMED QUOTATION): "DO YOU UTILIZE THE SRRE IN
24 CONDUCTING RECYCLING ACTIVITIES IN THE CITY OF HAWTHORNE?"

1 HIS ANSWER WAS A CLEAR NO. IF HE DOESN'T USE THE SRRE HOW
2 CAN HE PROVIDE INFORMATION THAT'S FACTUAL TO THE CITY, AND
3 THE CITY PROVIDE FACTUAL INFORMATION TO THE BOARD'S STAFF?

4 ACTUAL DIVERSION. AND I BELIEVE GARY AND
5 CHRIS COULD ADDRESS THIS IF THEY FEEL UNCOMFORTABLE WITH
6 THIS DIVERSION NUMBER. THE CITY OF HAWTHORNE REPORTED --
7 AND CORRECT ME IF I'M WRONG, GARY -- FOR ALL DIVERSION
8 MATERIAL, 760 TONS -- I'M GOING TO SAY BETWEEN 700 AND 760
9 TONS. USING THEIR BASE YEAR NUMBER OF 128,450 TONS, THAT'S
10 LESS THAN ONE-PERCENT DIVERSION. IF ONE-PERCENT DIVERSION
11 IS SATISFACTORY FOR THE CITY OF HAWTHORNE WE HAVE A SERIOUS
12 PROBLEM WITH AB 939. AND, THESE NUMBERS ARE NUMBERS
13 PROVIDED BY THE CITY.

14 NOW, MR. COLLORD AND MR. SMITH, DO YOU HAVE
15 ANY OTHER DIVERSION -- ANY OTHER RECYCLING NUMBERS OTHER
16 THAN 760 TONS FOR THE YEARS -- ANY YEAR, 1996, 1997, 1998?

17 MR. COLLORD: THE LAW DOES NOT REQUIRE THEM TO
18 GIVE US DIVERSION NUMBERS FOR THOSE YEARS. WE USE A
19 DISPOSAL-BASED SYSTEM. AND, SO IT'S BASED ON DISPOSAL
20 RELATIVE TO THE BASE YEAR.

21 (THE PARTIES SIMULTANEOUSLY SPEAK.)

22 MEMBER JONES: WHAT WAS THAT NUMBER? WHAT WAS THE
23 DISPOSAL THAT YEAR, DO YOU KNOW? DO YOU HAVE IT WITH YOU?
24 DOESN'T MATTER, KEEP GOING.

1 MR. JAMGOTCHIAN: THEIR DISPOSAL IS TYPICALLY
2 ABOUT -- THEIR DISPOSAL'S APPROXIMATELY 60,000 (SIC) A YEAR.

3 THE REASON WHY I KNOW THAT IS I HAVE DUMP TICKETS FROM THE
4 TRANSFER STATION WHERE THEY TAKE THE MAJORITY OF THEIR
5 REFUSE, BACK TO 1994.

6 MEMBER JONES: SIXTY THOUSAND TONS OF DISPOSAL --

7 MR. JAMGOTCHIAN: SIXTY THOUSAND TONS OF DISPOSAL
8 FOR EVERYTHING.

9 MEMBER JONES: ALL RIGHT. AND THE BASE YEAR YOU
10 PUT UP IS 128,450.

11 MR. JAMGOTCHIAN: THAT'S THEIR BASE YEAR THAT THEY
12 SAY SHOULD BE KEPT. AND --

13 MEMBER JONES: AND THE WAY THAT THE LAW WAS
14 CHANGED, THE LAW WAS CHANGED NOT TO REPORT WHAT DIDN'T
15 EXIST, IT SAID TELL US HOW MUCH YOU DISPOSE OF AND WE'LL --

16 MR. JAMGOTCHIAN: RIGHT. AND WE'LL TALK ABOUT --

17 MEMBER JONES: -- AND WE'LL GET TO THE NUMBER.

18 MR. JAMGOTCHIAN: RIGHT, WE'LL TALK ABOUT THAT,
19 THAT'S ALMOST A....

20 SO, THE POINT -- THE LESS THAN ONE PERCENT
21 DIVERSION ISSUE IS SOMETHING THAT -- THAT IS ACTUAL (PHON)
22 IN REAL WORLD NUMBERS TODAY, BECAUSE THEY'VE ONLY REPORTED
23 760 TONS OF DIVERSION IN THE YEARS 1996, 1997, AND 1998,
24 TOTAL. AND THEIR REPORTS ARE ALL CONTAINED IN YOUR PACKAGE.

1 FURTHER, JUST THIS WEEK I GET A LETTER FROM
2 THE CITY ESSENTIALLY SAYING -- IT'S IN YOUR PACKAGE -- THAT
3 THE CITY IS NOT IN ANY -- IS NOT IN POSSESSION OF ANY BACK-
4 UP DOCUMENTS FOR ANY OF THESE RECYCLING NUMBERS THAT THEY
5 SUBMIT TO THE CITY. SO, THE CITY DOESN'T GET ANY BACK-UP
6 DOCUMENTATION TO VERIFY THAT THESE NUMBERS ARE ACCURATE.
7 AND, IN FACT, THERE'S NO REQUIREMENT FOR THE RECYCLER TO
8 PROVIDE THEM. SO, ONCE AGAIN WE'RE TALKING ABOUT THERE'S NO
9 OVERSIGHT OF THIS HAULER.

10 AND OF COURSE, WE BROUGHT THIS UP LAST TIME,
11 IN HAWTHORNE IT COSTS \$590 A TON TO RECYCLE. THAT THEY GET
12 PAID \$447,000 A YEAR -- A YEAR -- THEY RECYCLE 760 TONS,
13 BASED UPON WHAT THEY REPORT, AND THEN THEY GET PAID \$590 A
14 TON. IT'S NOT A BAD BUSINESS.

15 THERE'S A RESIDENT THAT FELT STRONGLY ENOUGH
16 ABOUT THIS ISSUE THAT WOULD LIKE TO COME UP BRIEFLY, FOR A
17 COUPLE OF MINUTES, AND EXPLAIN THE AGENCY'S RESIDENTIAL BAG-
18 AND-TAG PROGRAM.

19 ERIC, YOU WANT TO COME UP REAL QUICK?

20 BY THE WAY, SENATOR ROBERTI, WE HAVE THE SAME
21 PROBLEM, I GUESS, IS THAT YOU HAVE A WALL (PHON) PROBLEM, I
22 HAVE A RECYCLING PROBLEM. I OWN A SHOPPING CENTER IN
23 HAWTHORNE. THREE YEARS AGO I REQUESTED TO DO RECYCLING IN
24 MY SHOPPING CENTER, AND WAS PROMPTLY SUED, AND SAID THAT

1 THEY DIDN'T DO COMMERCIAL RECYCLING. AND THAT'S KIND OF THE
2 REASON WHY I'M HERE.

3 MR. HARTMAN: MR. CHAIRMAN, BOARD MEMBERS, THAN
4 YOU FOR THIS OPPORTUNITY TODAY TO COME UP HERE TO JUST
5 BRIEFLY EXPLAIN TO YOU AS A RESIDENT OF THE CITY OF
6 HAWTHORNE --

7 CHAIRMAN PENNINGTON: WE NEED TO HAVE YOU IDENTIFY
8 YOURSELF.

9 MR. HARTMAN: MY NAME IS ERIC HARTMAN.

10 CHAIRMAN PENNINGTON: THANK YOU.

11 MR. HARTMAN: THANK YOU.

12 FIVE YEARS AGO I MOVED INTO THE CITY OF
13 HAWTHORNE FROM THE SURROUNDING COMMUNITIES OF -- WHICH I
14 GREW UP IN, MANHATTAN BEACH AND REDONDO BEACH, THOSE ARE THE
15 TWO CITIES THAT I'VE EVER LIVED IN OTHER THAN HAWTHORNE.

16 THE RECYCLING PROGRAMS THAT I COME FROM ARE
17 CONSISTING OF RECYCLING BINS, DIFFERENT SIZED TRASH CANS
18 AVAILABLE TO YOU, FACILITIES TO TAKE TUOLENES AND PAINT
19 THINNERS, AND PAINTS FOR THE RESIDENTS. AND THIS IS WHAT I
20 HAVE TO BASE WHAT I HAVE NOW IN THE CITY OF HAWTHORNE, A
21 BAG-AND-TAG PROGRAM, WHICH IS JUST A STICKER THAT THE CITY
22 PROVIDES YOU TO PUT ON A RECEPTACLE THAT YOU HAVE TO
23 PURCHASE, TRASH BAGS THAT YOU HAVE TO PURCHASE.

24 AND, I DON'T KNOW IF ANY OF YOU HAVE EVER

1 GONE TO HOME DEPOT AND BOUGHT 300 BAGS AND BOXES, THEY'RE
2 \$30.00. I FEEL LIKE I'M PAYING TO RECYCLE, ON TOP OF PAYING
3 TO RECYCLE. WE'RE PAYING ALREADY, OUT OF OUR CITY TAXES,
4 UNDER AB 939 IF I'M NOT MISTAKEN OF SOME SORT, AND ON TOP OF
5 IT I HAVE TO GO BUY BAGS OR A TRASH CAN, OR SOMETHING TO PUT
6 MY RECYCLING IN. AND I JUST, AS A CITIZEN, DON'T FEEL THAT
7 THIS IS A REAL RECYCLING PROGRAM. AND THE WORD "CUNARD"
8 (PHON) COMES TO MIND.

9 I CALLED UP THE AGENCY AND I ASKED THEM FOR
10 RECYCLING BINS AND THEY TELL ME, WE DON'T PROVIDE THEM,
11 THEY'RE TOO COSTLY, WE DON'T DO THAT PROGRAM. I RECEIVE
12 NOTHING FOR EDUCATIONAL MATERIAL FROM THE CITY. WHERE TO
13 TAKE RECYCLING, PAINTS, NOTHING, WE GET NOTHING FROM THEM.

14 AND IT JUST SEEMS TO ME, BOARD MEMBERS AND
15 CHAIRMAN, THAT THE STANDARD IS ALREADY SET OUT THERE IN THE
16 COMMUNITIES, IT SEEMS LIKE, THAT BINS AND DIFFERENT TRASH-
17 SIZED BARRELS, AND FACILITIES TO GO AND TAKE YOUR PAINTS AND
18 YOUR THINNERS TO HAS ALREADY SET THE STANDARD. AND THE BAG-
19 AND-TAG PROGRAM JUST FALLS WAY SHORT OF THAT STANDARD.

20 AND, I THANK YOU FOR LISTENING TO ME. I
21 DIDN'T PREPARE ANYTHING, AND I APOLOGIZE FOR THAT.

22 CHAIRMAN PENNINGTON: THAT'S ALL RIGHT.

23 MR. HARTMAN: THANK YOU.

24 CHAIRMAN PENNINGTON: ANY QUESTIONS? NO? THANK

1 YOU.

2 MR. JAMGOTCHIAN, WE NEED TO MOVE ALONG.

3 MR. JAMGOTCHIAN: I'M ALMOST FINISHED.

4 CHAIRMAN PENNINGTON: OKAY, THANK YOU.

5 MR. JAMGOTCHIAN: THE BASE YEAR TONNAGE ISSUE.
6 CHAIRMAN AND MEMBERS OF THE BOARD, THE CITY'S REQUEST IS,
7 ONE OF THE DOCUMENTS THAT THEY FILED SAID IT'S A SHOTGUN
8 APPROACH, WE REALLY DIDN'T KNOW HOW MUCH IT WAS, IT WAS A
9 SHOTGUN.

10 AND, IT'S REALLY INTERESTING. I FOUND OUT
11 WHO DID THE SRRE AND WHO WORKED FOR EMCON. AND THE
12 GENTLEMAN THAT WORKED FOR EMCON SUBMITTED A STATEMENT THAT'S
13 ATTACHED TO THIS. I GAVE HIS NUMBER AND HIS NAME TO THE
14 WASTE BOARD, REPRESENTATIVES MR. COLLORD AND MR. SCHMIDLE,
15 AND ASKED THEM TO CONTACT HIM. I DON'T WANT TO READ THE
16 STATEMENT, BUT I DO WANT TO TELL YOU A COUPLE THINGS.

17 MEMBER JONES: WHERE'S IT AT?

18 MR. JAMGOTCHIAN: IT'S THIS LETTER -- IT'S IN
19 SECTION NUMBER -- IT'S A FAX, AND THE PERSON CAN BE
20 CONTACTED TO VERIFY THAT HE WROTE THIS. ESSENTIALLY IT'S A
21 LETTER THAT HAS COME TO MY ATTENTION, THAT'S THE WAY IT
22 STARTS, ON THE BOTTOM -- IT LOOKS LIKE THIS.

23 ESSENTIALLY WHAT HE SAYS IS NONE OF THIS
24 STUFF WAS DUMPED, IT WAS ALL DIVERTED. AND WHY WOULD A

1 DEMOLITION COMPANY PAY FOR DISPOSAL MATERIAL THAT IS INERT,
2 AND NORMALLY SENT TO AN INERT FILL, OR RECYCLED IN THE
3 SECOND-GRADE CONSTRUCTION MATERIAL AND/OR PAY THE LANDFILL
4 TIPPING FEES AT THAT TIME, WHICH WERE IN EXCESS OF \$700,000.

5 IT'S REALLY INTERESTING. DO YOU KNOW WHO THE
6 DIRECTOR OF THE REDEVELOPMENT AGENCY WAS AT THIS TIME, WHEN
7 THIS REDEVELOPMENT PROJECT IN 1990-1991 OCCURRED? NONE
8 OTHER THAN MR. CORMIER, THE CITY MANAGER. OBVIOUSLY HE
9 KNOWS WHERE IT WENT.

10 SO, THE BASE YEAR NUMBER, BASED UPON PUBLIC
11 RESOURCES CODE SECTION 41781.2(C), AS YOU ALL ARE AWARE,
12 REQUIRES THAT THE CITY DEMONSTRATE THAT THE MATERIAL WAS
13 DIVERTED. AND IT SPECIFICALLY RESULTED IN DIVERSION. THE
14 CITY'S MADE NO FINDING -- PROVED NOTHING IN THIS REGARD,
15 THAT IT WAS DUMPED.

16 MEMBER JONES: MR. CHAIRMAN?

17 CHAIRMAN PENNINGTON: YES, MR. JONES?

18 MEMBER JONES: CAN I ASK YOU A QUESTION?

19 MR. JAMGOTCHIAN: YES.

20 MEMBER JONES: WHO SENT THIS?

21 MR. JAMGOTCHIAN: IT WAS SENT BY THE EMCON PERSON
22 WHO HANDLED THIS, HIS NAME IS LOUIS EPILIDO (PHON).

23 MEMBER JONES: HOW 'COME IT'S NOT TITLED, IT'S NOT
24 SIGNED, IT'S NOT -- IT'S AWFULLY CONVERSIVE (SIC) --

1 MR. JAMGOTCHIAN: RIGHT.

2 MEMBER JONES: -- FOR AN ENGINEER.

3 MR. JAMGOTCHIAN: I'LL TELL YOU WHY.

4 MEMBER JONES: AND I -- BELIEVE ME, I'VE LIVED
5 AROUND ENGINEERS MY WHOLE LIVE, AND I DON'T KNOW THEM TO BE
6 THIS CONVERSIVE.

7 MR. JAMGOTCHIAN: WELL, I'LL TELL YOU WHY. MR.
8 EPILIDO WAS VERY CONCERNED ABOUT WRITING THIS, AND I TOLD
9 HIM THAT HE WOULD GET A CALL FROM THE BOARD IF THEY WANTED
10 TO VERIFY IT. AND MR. EPILIDO'S NAME WAS IN A PRIOR
11 BOOKLET, I CAN PROVIDE HIS NUMBER TO YOU IF YOU'D LIKE TO
12 CALL HIM, AND HE'LL BE HAPPY TO EXPLAIN THIS, AND HE'LL BE
13 HAPPY TO STAND BEHIND WHAT HE WROTE. HE FAXED THIS TO ME
14 DIRECTLY.

15 MEMBER JONES: IS HE WRITING IT AS AN EMPLOYEE OF
16 EMCON?

17 MR. JAMGOTCHIAN: NO, HE'S NOT WRITING IT -- I
18 ASKED HIM, WHEN HE WAS AN EMPLOYEE OF EMCON, IF HE KNEW
19 ANYTHING ABOUT THIS ISSUE, AND HE SAID, YES, I KNOW ALL
20 ABOUT IT, AND THIS IS WHAT HE WROTE.

21 MEMBER JONES: SO IF I WERE TO CALL GENE HERSONG
22 (PHON), WHO'S THE CEO OF EMCON, AND ASK HIM TO VERIFY THAT
23 ONE OF HIS EMPLOYEES WOULD WRITE THIS LETTER TO SUPPORT WORK
24 THAT THEY CHARGED THE CITY, AND THEN LATER SENT TO US,

CALIFORNIA SHORTHAND REPORTING

1 SIGNED OFF BY THIS GENTLEMAN --

2 MR. JAMGOTCHIAN: RIGHT.

3 MEMBER JONES: -- THAT IT WAS ACCURATE, WHAT KIND
4 OF RESPONSE AM I GOING TO GET?

5 MR. JAMGOTCHIAN: WELL, MR. EPILIDO NO LONGER
6 WORKS THERE, FOR ONE ISSUE.

7 SECONDLY, ALL I DID WAS DO THE DUE DILIGENCE
8 TO FIND OUT WHAT THE TRUTH WAS. AND IF STAFF WANTED TO
9 VERIFY --

10 MEMBER JONES: THAT'S ALL I'M TRYING TO DO.
11 BECAUSE WHEN IT'S NOT NAMED --

12 MR. JAMGOTCHIAN: RIGHT.

13 MEMBER JONES: -- THEN I HAVE A HARD TIME -- YOU
14 KNOW, THAT --

15 MR. JAMGOTCHIAN: THAT'S WHY I MADE HIS TELEPHONE
16 NUMBER AVAILABLE TO THE STAFF, TO CONFIRM THIS IN ADVANCE OF
17 THIS MEETING.

18 BOARD MEMBER JONES, YOU KNOW, FROM MY
19 PERSPECTIVE, HE'S SCARED ABOUT THINGS HAPPENING TO HIM, AND
20 HE PROVIDED THE LETTER OUT OF COURTESY TO ME. AND I ASKED
21 HIM IF THE BOARD COULD CONTACT HIM, THE BOARD NEVER
22 CONTACTED HIM, BOARD STAFF NEVER CONTACTED HIM.

23 MR. SMITH: MR. CHAIRMAN, THE XEROX I HAVE -- THE
24 FAX I HAVE IS DATED YESTERDAY AT 8:30 IN THE MORNING, SO WE

1 HAVE NOT HAD A CHANCE TO --

2 CHAIRMAN PENNINGTON: ALL RIGHT.

3 MR. JAMGOTCHIAN: I JUST GOT IT TWO DAYS AGO.

4 BUT, I MEAN, AS SOON AS I GOT IT I TALKED TO GARY COLLORD
5 AND I SAID PLEASE CALL HIM.

6 ADDITIONALLY --

7 CHAIRMAN PENNINGTON: YOU KNOW, YOU'VE BEEN GOING
8 ON FOR --

9 MR. JAMGOTCHIAN: OKAY. IF I COULD HAVE FIVE
10 MINUTES?

11 CHAIRMAN PENNINGTON: -- 35 MINUTES.

12 MR. JAMGOTCHIAN: IF I COULD HAVE FIVE MINUTES
13 THAT'LL CONCLUDE IT. THANK YOU.

14 MR. JAMGOTCHIAN: I'LL TRY TO DO IT IN THREE.

15 CHAIRMAN PENNINGTON: OKAY. I'LL KEEP YOU TO
16 THREE.

17 (THE PARTIES SIMULTANEOUSLY SPEAK.)

18 MR. JAMGOTCHIAN: ADDITIONALLY, AGENCY DISPOSALS
19 COUNSEL HAS CHALLENGED THE WASTE BOARD BY STATING THAT THE
20 BOARD HAS GIVEN NO DIRECT LEGAL AUTHORITY TO REVISE THE
21 CITY'S BASE YEAR NUMBER, AND THAT THE BOARD CANNOT, UNDER
22 EXISTING LAW OR PRINCIPLES AND FUNDAMENTAL FAIRNESS REQUIRE
23 A REVISION OF HAWTHORNE'S BASE YEAR NUMBER.

24 NOW, I DON'T KNOW IF THAT'S ACCURATE OR NOT.

1 I BELIEVE THAT MR. BLOCK JUST DISPUTES THAT FIGURE. BUT,
2 I'LL LEAVE IT UP TO THE BOARD TO MAKE A DECISION. BUT, I
3 THINK THAT THE BASE YEAR NEVER NEEDS TO BE REVIEWED, AND THE
4 STUDY NEEDS TO BE DONE.

5 I NOTICE THAT NUMBER 18 TODAY IS TO CORRECT A
6 BASE YEAR DISPOSAL TONNAGE NUMBER FOR THE CITY OF FRESNO.

7 AS I EARLIER MENTIONED, THE REASONABLE
8 TONNAGE ON A YEARLY BASIS IN HAWTHORNE -- APPROXIMATELY
9 60,000 TONS A YEAR. THAT'S A CONSISTENT NUMBER FROM 1993
10 FORWARD, AND WE CAN PROVIDE AGENCY'S DISPOSAL NUMBERS TO
11 YOU. THEY'RE EASILY ATTAINABLE. WE GOT THEM FROM A
12 LITIGATION THAT WE HAD AGAINST AGENCY FROM WASTE
13 MANAGEMENT'S FACILITY IN GARDENA. IT'S A TRANSFER STATION.

14 AND, FINALLY, THE BIGGER ISSUE -- AS YOU ALL
15 READ IN THE REFUSE NEWS, THERE'S AN ARTICLE THAT WAS WRITTEN
16 BY (INDISC.), TALKING ABOUT THE BOARD'S RESOLVE TO LEVEE
17 FINES, AND TO ENFORCE THE PROVISIONS OF AB 939. AND, IN
18 THIS PARTICULAR CASE, I GUESS IT WAS MR. WADELL'S (PHON)
19 FEELING THAT IF THE BOARD DIDN'T DO SOMETHING -- COMPLIANCE
20 ORDER BEING THE FIRST GOOD STEP -- THAT THIS BOARD MIGHT BE
21 CONSIDERED A BUREAUCRATIC PAPER TIGER. I DON'T AGREE WITH
22 THAT, BECAUSE I THINK THERE HAVE BEEN STRIDES THAT HAVE
23 ALREADY BEEN MADE.

24 BUT, THERE ARE A LOT OF HAULERS AND CITIES

1 THAT ARE WATCHING THIS CHALLENGE TO THE WASTE BOARD BY
2 HAWTHORNE AND ITS COUNSEL. THE CITY HAS CLEARLY NOT
3 RECYCLED SINCE 1991. I BELIEVE STAFF HAS DONE THEIR
4 PRESENTATION TO IDENTIFY THAT LACK OF RECYCLING.

5 AND, WE'RE TALKING ABOUT 1995-96 RIGHT NOW.
6 1997 AND 1998 ARE IN THE SAME PERCENTAGE FACTOR, WHETHER
7 IT'S 14 PERCENT, AS MR. SCHIAVO SAID, OR IT'S LESS THAN ONE
8 PERCENT AS PROVIDED BY THE MEMBERS.

9 I THANK YOU FOR YOUR TIME, I APPRECIATE YOUR
10 INTEREST.

11 CHAIRMAN PENNINGTON: THANK YOU.

12 ANY QUESTIONS? OKAY, THANK YOU.

13 MR. BERNHEIMER: (PRESUMED). MR. CHAIRMAN, IF I
14 COULD JUST HAVE THREE MINUTES TO CLARIFY THE RECORD ON A
15 COUPLE THINGS? I WILL NOT GO THROUGH IT IN DETAIL.

16 CHAIRMAN PENNINGTON: OKAY.

17 MR. BERNHEIMER: BUT, I FEEL COMPELLED,
18 UNFORTUNATELY, TO RESPOND TO THE STATEMENTS OF MR.
19 JAMGOTCHIAN.

20 ONCE AGAIN, WE HAVE FOUND HIM TO COMPLETELY
21 DISTORT THE TRUE NATURE OF THE FACTS, AND LEAVE THIS BOARD
22 WITH A FALSE IMPRESSION. I ASK THAT THE BOARD HONESTLY
23 CONSIDER THE CHARACTER OF THE INDIVIDUAL PROVIDING THIS
24 INFORMATION.

1 MR. JAMGOTCHIAN, BY WAY OF HISTORY, WAS
2 SANCTIONED BY A SUPERIOR COURT IN LOS ANGELES IN 1996 FOR
3 FILING A FALSE DECLARATION UNDER PENALTY OF PERJURY IN A
4 CASE ADVERSE TO THE CITY, AND TO THE WASTE HAULER. THE
5 COURT SPECIFICALLY FOUND THAT MR. JAMGOTCHIAN WILLFULLY AND
6 INTENTIONALLY FILED A DECLARATION IN WHICH HE MADE A FALSE
7 STATEMENT, KNOWN BY HIM AT THE TIME TO BE FALSE. THE JUDGE
8 STATED (PRESUMED QUOTATION): "I THINK IT IS CLEAR IN THIS
9 CASE THAT HE WILLFULLY LIED TO THE COURT."

10 IN A COURT OF LAW MR. JAMGOTCHIAN PROVIDED
11 EVIDENCE UNDER PENALTY OF PERJURY AND, YET, HE WAS NOT
12 TRUTHFUL. HOW CREDIBLE IS THE INFORMATION HE PROVIDES TO
13 THIS COURT (SIC) WHEN NO PENALTY OF PERJURY IS ATTACHED?

14 I WILL NOT GO THROUGH EACH EXAMPLE OF WHAT HE
15 HAS STATED, BUT LET ME JUST TAKE ONE EXAMPLE FROM HIS PACKET
16 AND SHOW THE BOARD HOW IT IS MISLEADING. THE DOCUMENT WHICH
17 SHOWS A DIVERSION RATE OF POINT-ZERO-ZERO-FIVE-FIVE PERCENT
18 IDENTIFIES DIVERSION OF 760 TONS. MR. JAMGOTCHIAN WAS
19 PROVIDED A REPORT FROM THE CITY, FROM JANUARY 15TH, WHICH
20 SPECIFICALLY ADDRESSED THAT 760-TON ISSUE.

21 STAFF CONFIRMED THAT THEY SENT MR.
22 JAMGOTCHIAN A COPY OF THAT REPORT. THE CITY SENT MR.
23 JAMGOTCHIAN A LETTER EXPLAINING THAT NUMBER. AND, IN FACT,
24 ODDLY ENOUGH, THAT LETTER THAT EXPLAINS THAT NUMBER IS IN

1 MR. JAMGOTCHIAN'S PACKET THAT HE PROVIDED YOU. THAT 760-
2 TON FIGURE IS JUST BUT A SMALL PIECE OF THE DIVERSION PIE,
3 AND TO SOMEHOW ASSERT THAT THAT IS THE ENTIRE DIVERSION IS
4 AN INTENT TO MISLEAD THIS BOARD.

5 LAST MONTH MR. JAMGOTCHIAN PLED NO CONTEST
6 TO A MISDEMEANOR CONTEMPT OF COURT CHARGE STEMMING FROM THE
7 PERJURED DECLARATION.

8 IF YOU, THE MEMBERS OF THE CALIFORNIA
9 INTEGRATED WASTE MANAGEMENT BOARD WERE MEMBERS OF THE JURY
10 IN A LEGAL PROCEEDING, AND ASKED TO WEIGH EVIDENCE PRESENTED
11 BY MR. JAMGOTCHIAN, YOU WOULD BE INSTRUCTED BY THE JUDGE TO
12 ASSESS THE CHARACTER OF THE WITNESS FOR HONESTY AND
13 TRUTHFULNESS. UNDER CALIFORNIA'S BOOK OF APPROVED JURY
14 INSTRUCTIONS, YOU WOULD BE ALLOWED TO CONSIDER PRIOR
15 CONVICTIONS, EVEN MISDEMEANOR CONVICTIONS, WHEN THEY RELATE
16 TO ONE'S CHARACTER FOR HONESTY AND TRUTHFULNESS. IF YOU
17 FOUND AN INDIVIDUAL DID NOT HAVE A HISTORY OF BEING
18 TRUTHFUL, HIS TESTIMONY COULD BE IGNORED ALL TOGETHER.

19 I ASK THAT YOU TRULY CONSIDER THE SOURCE OF
20 THE INFORMATION PROVIDED, AND WEIGH IT ACCORDINGLY. THANK
21 YOU.

22 CHAIRMAN PENNINGTON: OKAY. SENATOR?

23 MEMBER ROBERTI: JUST A BRIEF COMMENT TO THE PRIOR
24 SPEAKER. WE APPRECIATE YOUR CONCERNS BUT MR. JAMGOTCHIAN IS

1 REALLY NOT THE ISSUE.

2 THE ISSUE IS -- WELL, IN PART, DEALS WITH YOUR
3 CONFUSION OF YOUR BASE YEAR AND THE DATA THAT WE HAVE AND
4 WHETHER IT WAS MR. JAMGOTCHIAN OR MR. (INDISC.) WHO BROUGHT
5 THE THING TO OUR ATTENTION, IT DOES STRIKE AS A PROBLEM.

6 CHAIRMAN PENNINGTON: I DON'T HAVE HIM WRITTEN
7 DOWN --

8 MR. BERNHEIMER: AND I THINK THAT, IN REGARDS TO
9 THE ISSUES IN OUR (PHON) BASE YEAR, AND I SAID THIS AT THE
10 OUTSET -- WE MET WITH YOUR STAFF, YOU, UNFORTUNATELY, WERE
11 UNAVAILABLE -- WE MET WITH EACH BOARD MEMBER INDIVIDUALLY
12 AND WE APPRECIATE THE TIME THAT YOU GAVE US. WE WENT
13 THROUGH A DETAILED EXPLANATION OF THOSE ISSUES, AND I DIDN'T
14 WANT TO JUST REITERATE ALL THOSE THINGS HERE.

15 BUT, I THINK THAT THERE IS A VALID --
16 EXPLANATION FOR SOME OF THE CONERNS THAT WERE RAISED AND I
17 THINK THAT THERE HAVE BEEN A TREMENDOUS NUMBER OF PROGRAMS
18 CONSTITUTED IN HAWTHORNE. THERE WERE FIVE PROGRAMS, WE
19 BELIEVE, THAT WEREN'T IDENTIFIED IN THE SRRE THAT WERE
20 ACTUALLY IMPLEMENTED, FOR A TOTAL OF 12 PROGRAMS, AND I
21 THINK THAT WE HAVE SEEN TREMENDOUS STRIDES.

22 BUT WHAT HAS BEEN POSITIVE ABOUT THIS
23 PROCESS, AND I THINK THIS IS GOOD, IS THE BOARD HAS PUT THE
24 PRESSURE ON, AND I THINK THAT IT HAS LED TO DISCUSSIONS

1 BETWEEN THE CITY, THE WASTE HAULER, AND THE BOARD OF HOW WE
2 CAN IMPLEMENT MORE PROGRAMS. AND THAT'S A POSITIVE PROCESS,
3 AND WE THANK YOU FOR THAT.

4 CHAIRMAN PENNINGTON: VERY GOOD. THANK YOU.

5 MEMBER EATON: MR. CHAIR?

6 CHAIRMAN PENNINGTON: MR. EATON.

7 MEMBER EATON: I WILL ATTEMPT TO SORT OF BRING
8 THIS TO A CLOSE, AND THEN PERHAPS WE CAN MOVE TO THE NEXT
9 ITEM.

10 AS I READ THIS, I BELIEVE THAT ALL OF MY
11 COLLEAGUES HERE ON THE BOARD, AS WELL AS THE CITY OF
12 HAWTHORNE, AND MR. JAMGOTCHIAN, ALL AGREE THAT WE ARE GOING
13 TO ADOPT A COMPLIANCE ORDER TODAY. AND THAT THERE IS NO
14 DISAGREEMENT AMONGST ANY OF THOSE THREE AS TO THE FOUR
15 THINGS THAT HAVE BEEN RECOMMENDED BY THE STAFF, WITH THE
16 EXCEPTION OF THE CHARACTERIZATION STUDY THERE, I THINK,
17 WHICH MR. JONES WILL GET TO.

18 IN ADDITION, MR. JAMGOTCHIAN WOULD LIKE TO
19 ADD THREE ADDITIONAL PROVISIONS TO THAT COMPLIANCE ORDER.
20 MY UNDERSTANDING IS THAT THOSE THREE PROVISIONS, OR THREE
21 THINGS ON THE ORANGE SHEET, ARE ALWAYS THE SUBJECT OF
22 NEGOTIATION (INDISC.) WHAT STAFF HAS RECOMMENDED IN THE -- I
23 CAN'T RECALL WHAT YOU CALLED IT, BUT THE MUTUALLY-AGREED
24 UPON PERFORMANCE EVALUATION.

1 SO, I THINK EVERYONE'S KIND OF IN AGREEMENT,
2 IT'S JUST KIND OF QUIBBLING OVER ONE OR TWO DETAILS. SO, I
3 KNOW THAT MR. JONES IS ANXIOUSLY AWAITING TO MAKE HIS
4 MOTION, SO WE CAN BRING IT TO A CLOSE. BUT I THINK EVERYONE
5 IS IN AGREEMENT. THAT EVERYONE AGREES THAT WE SHOULD ADOPT
6 THE COMPLIANCE, SO LET'S GET ON WITH IT.

7 MEMBER JONES: MR. CHAIRMAN.

8 CHAIRMAN PENNINGTON: MR. JONES.

9 MEMBER JONES: I THINK I WILL GET ON WITH IT. I
10 WANT TO MAKE A MOTION TO MOVE THE COMPLIANCE PLAN,
11 COMPLIANCE ORDER, WITH THE EXCEPTION OF, ON PAGE THREE OF
12 SEVEN, WHERE IT SAYS "DEVELOP THE NEW WASTE GENERATION
13 STUDY." I WOULD LIKE THAT TO BE HELD IN ABEYANCE PENDING
14 THE OUTCOME OF THE WORK OF THE LOCAL GOVERNMENT ASSISTANCE
15 GROUP WITH THE CITY OF HAWTHORNE, AND WHOEVER THEY'RE GOING
16 TO HAVE INVOLVED, IN PUTTING TOGETHER PROGRAMS AND
17 MONITORING THOSE PROGRAMS FOR SUCCESS. WE WILL INCLUDE THE
18 MEASURABLE AND MUTUALLY-ACCEPTABLE, WITH THE LARGE "M"
19 POINTED TOWARDS THE WASTE BOARD, ON A NEGOTIATED SETTLEMENT
20 FOR PROGRAMS AND COMPLIANCE, THE ISSUES THAT YOU NEED TO --
21 AND I'M GOING TO USE THE WRONG WORD, BUT THE ACTUAL
22 OPERATIONAL PROGRAMS THAT HAVE TO BE PUT IN PLACE --

23 MR. SCHIAVO: PERFORMANCE PLAN IS WHAT WE CALL IT.

24 MEMBER JONES: PERFORMANCE PLAN. AND THAT, AS

1 PART OF THAT PERFORMANCE PLAN, YOU INCLUDE DISCUSSIONS ABOUT
2 C&D ORDINANCES, SINCE THIS IS A REDEVELOPMENT AREA, THE
3 IMPLEMENTATION OF A CITY-SPONSORED C&D ORDINANCE THAT
4 PROMOTES RECYCLING OF THOSE MATERIALS ON SITE TO BE USED AS
5 PART OF THE REDEVELOPMENT INFRASTRUCTURE NEEDS TO BE
6 ATTACHED. AND THAT IS MY MOTION.

7 AND INCLUDE THESE THREE SUGGESTIONS AS PART
8 OF YOUR NEGOTIATIONS, OBVIOUSLY. I MEAN, IT'S PART AND
9 PARCEL OF ALL THE OTHER ISSUES YOU HAVE.

10 MR. BLOCK: CHAIRMAN PENNINGTON?

11 CHAIRMAN PENNINGTON: YES.

12 MR. BLOCK: JUST TO CLARIFY, IN THAT MOTION, WOULD
13 THAT THEN INCLUDE SPECIFICALLY SUBTRACTING THE 53,000 FROM
14 THE BASE YEAR?

15 MEMBER JONES: NO.

16 MR. BLOCK: OKAY. BECAUSE THAT'S INCLUDED ON PAGE
17 TWO OF THE -- TWO OF SEVEN OF THE COMPLIANCE ORDER,
18 PARAGRAPHS 2.2 AND 2.3 RIGHT NOW REFERENCE THAT. SO WOULD
19 YOU JUST LIKE NOT TO SUBTRACT THE 53,000, OR HOLD THAT IN
20 ABEYANCE --

21 MEMBER JONES: HOLD IT IN ABEYANCE --

22 MR. BLOCK: -- SIMILAR TO THE WAY THE --

23 MEMBER JONES: HOLD THAT IN ABEYANCE BECAUSE WE
24 CAN'T VERIFY IT.

1 MR. BLOCK: OKAY. AND THEN JUST A SECOND POINT OF
2 CLARIFICATION, IN TERMS OF THE MUTUALLY-ACCEPTABLE PLAN, I
3 JUST WANT TO CLARIFY WHETHER, AS LONG AS IT'S ACCEPTABLE TO
4 STAFF AND THE CITY, IS THAT ACCEPTABLE, OR DOES THE BOARD
5 ACTUALLY WANT TO SEE THE PLAN?

6 MEMBER JONES: THAT WORKS FOR ME.

7 CHAIRMAN PENNINGTON: WE NEED A SECOND.

8 MEMBER FRAZEE: WELL, I'M ABOUT READY TO SECOND,
9 BUT I DO HAVE ONE MINOR PROBLEM, AND THAT'S THE INCLUSION OF
10 THIS, AND SPECIFICALLY RECOMMENDATION NUMBER ONE. I DON'T
11 THINK WE HAVE THE AUTHORITY TO REQUIRE A LOCAL GOVERNMENT TO
12 HIRE ANYONE, EVEN COURTS LACK THAT AUTHORITY I BELIEVE.

13 MEMBER JONES: MR. FRAZEE, I AGREE WITH YOU. I
14 JUST WANTED THAT TO BE -- I WANTED THESE THREE ITEMS TO BE
15 INCLUDED IN THE DISCUSSIONS, NOT -- THEY DIDN'T HAVE TO BE
16 IMPLEMENTED, THEY JUST HAD TO BE PART OF THAT DISCUSSION TO
17 BUILD THE THING.

18 IF YOU WANT TO ELIMINATE THEM -- BECAUSE
19 ACTUALLY, NUMBER TWO -- NUMBER ONE, NUMBER TWO ARE BOTH
20 REDUNDANT ANYWAY, JUST BECAUSE OF THE WAY THAT THE LAW IS
21 WRITTEN. IT WAS A WAY OF TRYING TO JUST HAVE IT DISCUSSED.

22 CHAIRMAN PENNINGTON: WHY DON'T WE DROP THAT?

23 MEMBER JONES: OKAY. I'M GOING TO DROP THIS
24 PIECE. BUT YOU KNOW WHAT -- YOU WORK ON WHATEVER YOU NEED

1 TO WORK ON.

2 MR. BLOCK: RIGHT.

3 CHAIRMAN PENNINGTON: OKAY?

4 MEMBER FRAZEE: OKAY, I'LL SECOND.

5 CHAIRMAN PENNINGTON: ANY FURTHER DISCUSSION?

6 OKAY.

7 MEMBER ROBERTI: I THINK I'LL HAVE YOU REPEAT THE
8 MOTION FOR ME JUST SO I KNOW --

9 MEMBER JONES: YOU KNOW, I KEEP WALKING DOWN THESE
10 ROADS AND, YOU KNOW, TRYING HERE, AND.... THE MOTION IS
11 THAT WE ADOPT THE COMPLIANCE ORDER AS DRAFTED. THAT ON PAGE
12 TWO OF SEVEN, ITEM 2.2 TO BE PULLED --

13 MEMBER ROBERTI: TWO-POINT-TWO. I DON'T HAVE THE
14 RIGHT STUFF IN MY BINDER.

15 MEMBER JONES: THIS IS WHERE WE WERE GOING TO DROP
16 53,000 TONS FROM THE BASE YEAR.

17 MEMBER ROBERTI: SO YOU'RE GIVING THAT TO
18 HAWTHORNE.

19 MEMBER JONES: BUT I'M HOLDING THE BASE YEAR OUT
20 IN ABEYANCE, DEPENDING UPON PROGRAM IMPLEMENTATION AND
21 SUCCESS OF THOSE PROGRAMS. AND IF WE HAVE TO REVISIT IT, WE
22 WILL REVISIT IT ALONG WITH THIS 53,000 TONS.

23 MEMBER ROBERTI: OKAY.

24 MEMBER JONES: AND THAT WE WORK ON A MUTUALLY --

1 OKAY, AND THEN THAT WE HOLD THE WASTE GENERATION STUDY IN
2 ABEYANCE ALONG WITH THAT 53,000. THAT WE WORK ON A
3 PERFORMANCE PLAN THAT IS MUTUALLY ACCEPTABLE TO THE CITY AND
4 THE COUNTY THAT IS WEIGHTED TOWARDS THE WASTE BOARD. AND
5 THAT WE INCLUDE AS PART OF THAT THE -- PART OF YOUR
6 PERFORMANCE PLAN, THAT THEY PUT TOGETHER A C&D ORDINANCE,
7 BECAUSE IT IS A REDEVELOPMENT ZONE, THAT DEALS WITH ON-SITE
8 GENERATION OF C&D WASTE THAT CAN BE USED IN THE
9 INFRASTRUCTURE. AND I THINK THAT'S MY MOTION.

10 CHAIRMAN PENNINGTON: OKAY. THE MOTION IS MOVED
11 BY MR. JONES, SECONDED BY MR. FRAZEE.

12 IF THERE'S NO FURTHER DISCUSSION, WILL THE
13 SECRETARY CALL THE ROLL?

14 THE SECRETARY: BOARD MEMBER EATON?

15 MEMBER EATON: AYE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: AYE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: AYE.

20 THE SECRETARY: ROBERTI?

21 MEMBER ROBERTI: AYE.

22 THE SECRETARY: CHAIRMAN PENNINGTON?

23 CHAIRMAN PENNINGTON: AYE.

24 MOTION CARRIES.

1 ITEM NO. 16: CONSIDERATION OF ADOPTION OF A COMPLIANCE
2 ORDER RELATIVE TO THE BIENNIAL REVIEW FINDINGS FOR THE
3 SOURCE REDUCTION AND RECYCLING ELEMENT FOR THE CITY OF
4 HAWAIIAN GARDENS, LOS ANGELES COUNTY

5 CHAIRMAN PENNINGTON: WE MOVE TO ITEM NO. 16,
6 CONSIDERATION OF ADOPTION OF A COMPLIANCE ORDER RELATIVE TO
7 THE BIENNIAL REVIEW FINDINGS FOR THE SOURCE REDUCTION AND
8 RECYCLING ELEMENT FOR THE CITY OF HAWAIIAN GARDENS IN LOS
9 ANGELES COUNTY.

10 MR. SCHIAVO: THIS WILL ALSO BE PRESENTED BY GARY
11 COLLORD.

12 CHAIRMAN PENNINGTON: OKAY.

13 MR. COLLARD: AT ITS DECEMBER 15TH, 1998, MEETING
14 THE BOARD CONDUCTED A BIENNIAL REVIEW OF HAWAIIAN GARDENS'
15 SRRE. THE PURPOSE OF THE BIENNIAL REVIEW WAS TO DETERMINE
16 WHETHER OR NOT THE CITY HAD ADEQUATELY IMPLEMENTED THE SRRE
17 AND ACHIEVED THE 1995 DIVERSION REQUIREMENTS AND, IF NOT,
18 WHETHER THE ISSUANCE OF A COMPLIANCE ORDER WAS WARRANTED.

19 THE BOARD CONSIDERED A NUMBER OF ISSUES IN
20 ITS REVIEW, INCLUDING THE NATURE AND NUMBER OF DIVERSION
21 PROGRAMS IMPLEMENTED, THE CITY'S REPORTED DIVERSION RATE,
22 AND WHETHER THE CITY HAD DEMONSTRATED A GOOD-FAITH EFFORT TO
23 IMPLEMENT THE SRRE.

24 AS YOU'LL RECALL, THE CITY HAD NOT

1 IMPLEMENTED ANY OF THE SRRE'S SELECTED PROGRAMS AND
2 IDENTIFIED ADVERSE BUDGETARY CONDITIONS AS THE REASON FOR
3 NOT IMPLEMENTING THE SRRE.

4 THE BOARD CONCLUDED THAT THE CITY HAD NOT
5 ADEQUATELY IMPLEMENTED THE SRRE, HAD NOT ACHIEVED THE 1995
6 DIVERSION REQUIREMENT, OR DEMONSTRATED A REASONABLE AND
7 ADEQUATE GOOD-FAITH EFFORT. THE BOARD DIRECTED STAFF TO
8 DRAFT A COMPLIANCE ORDER WITH SPECIFIC CONDITIONS FOR
9 ACHIEVING COMPLIANCE FOR THE BOARD'S CONSIDERATION AT
10 TODAY'S MEETING.

11 THE COMPLIANCE ORDER REQUIRES THE BOARD TO
12 HOLD A PUBLIC HEARING FOLLOWING THE TERM OF THE COMPLIANCE
13 SCHEDULE TO DETERMINE WHETHER OR NOT THE CITY HAS COMPLIED
14 WITH THE CONDITIONS OF THE ORDER. LIKEWISE, A PUBLIC
15 HEARING COULD BE SCHEDULED EARLIER IF THE CITY COMPLIES WITH
16 THE ORDER AHEAD OF SCHEDULE.

17 STAFF RECOMMENDS THAT THE PROPOSED COMPLIANCE
18 ORDERS AND CONDITIONS BE ADOPTED AS DRAFTED.

19 ARE THERE ANY QUESTIONS FOR STAFF?

20 CHAIRMAN PENNINGTON: ANY QUESTIONS FOR STAFF?
21 OKAY, MR. LOPEZ, THE CITY MANAGER IS HERE.

22 MR. LOPEZ: GOOD AFTERNOON. MY NAME IS ANTHONY
23 LOPEZ, I'M THE CITY ADMINISTRATOR FOR THE CITY OF HAWAIIAN
24 GARDENS.

1 FIRST OF ALL, I WISH TO THANK THE STAFF AND
2 THE BOARD ESPECIALLY IN REGARDS TO THE COMPLIANCE ORDER
3 THAT'S GOING TO ASSIST US IN ADDRESSING THE ISSUES.

4 I HAVE TO ADMIT, WHEN I CAME TO THE CITY OF
5 HAWAIIAN GARDENS IN JUNE OF '98, AFTER FOUR AND A HALF YEARS
6 AT ORANGE COVE, I KNEW I WAS COMING TO A CITY WHERE THERE
7 WAS A 75 PERCENT REDUCTION IN EMPLOYEES, THERE WAS A \$6
8 MILLION DEFICIT, BUT NOBODY TOLD ME ABOUT THIS ONE.

9 BUT, NEEDLESS TO SAY, ONE OF THE THINGS THAT
10 I'VE DONE ALREADY IN ORDER TO ASSURE THAT THERE'S TRUE
11 COMMUNICATION BETWEEN THE CITY AND THE STAFF IS THAT I'VE
12 TAKEN THE LIBERTY OF GIVING CHRIS MY NUMBER WHERE I CAN BE
13 REACHED 24 HOURS SEVEN DAYS A WEEK.

14 I CAN ASSURE YOU THAT THIS TYPE OF A VENTURE
15 IS NOT NEW TO ME, IN THE SENSE THAT YEARS AGO I DEALT WITH
16 WILLIAM CRUCKS (PHON) AND THE REGIONAL WATER QUALITY CONTROL
17 BOARD, WHERE I WENT AND MANAGED A CITY THAT THEY HAD A
18 MORATORIUM (INDISC.) THE SAME TWO-YEAR PERIOD OF TIME
19 WORKING WITH MR. CRUCKS' STAFF. THE MORATORIUM WAS LIFTED.

20 ALSO, ON BEHALF OF THE CITY OF HAWAIIAN
21 GARDENS, I TRULY WANT TO APOLOGIZE FOR PUTTING THE BOARD AND
22 THE STAFF IN THIS POSITION, AND THE ISSUE WILL BE ADDRESSED.

23 CHAIRMAN PENNINGTON: VERY GOOD, THANK YOU.

24 ANY QUESTIONS FOR MR. LOPEZ?

1 MEMBER JONES: MR. CHAIRMAN, JUST VERY QUICKLY.

2 MR. ALT (PHON), A REPRESENTATIVE FROM YOUR
3 COMPANY CAME UP AND MADE YOUR CASE.

4 MR. LOPEZ: YES, SIR.

5 MEMBER JONES: HE ALSO AT THAT TIME -- WHEN HE
6 TOLD US ABOUT WHAT HAD BEEN GOING ON IN HAWAIIAN GARDENS FOR
7 NINE YEARS AND WHAT HAD BEEN GOING ON SINCE YOU TOOK OVER, I
8 THINK HAD A LOT TO DO WITH THE FACT THAT WE WANTED TO WORK
9 WITH YOU.

10 MR. LOPEZ: THANK YOU.

11 MEMBER JONES: NOT SLAP YOU AROUND OR MAKE YOU AN
12 EMBARRASSMENT FOR YOUR CITY, BUT RATHER ACKNOWLEDGE THE JOB
13 THAT YOU'VE DONE, WHICH IS POSITIVE IN WORKING TOWARDS THE
14 SOLUTION. AND WE APPRECIATE YOUR EFFORTS, WE KNOW YOU'VE
15 GOT A TOUGH ONE.

16 MR. LOPEZ: THANK YOU.

17 MEMBER JONES: AND HOPEFULLY THIS COMPLIANCE
18 SCHEDULE IS SOMETHING THAT YOU CAN WORK WITH, THAT DOESN'T -
19 -

20 MR. LOPEZ: MOST DEFINITELY, THERE IS NO DOUBT.

21 MEMBER JONES: -- IN A POSITION WITH YOUR CITY
22 COUNSEL THAT --

23 MR. LOPEZ: THIS WILL BE A GOOD PROGRAM, SIR.

24 MEMBER JONES: GREAT.

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1 MR. LOPEZ: THANK YOU.

2 MEMBER EATON: MR. CHAIR, I'D BE HAPPY TO MOVE
3 RESOLUTION 1999-45 AS IT RELATES TO THE ADOPTION OF THE
4 COMPLIANCE ORDER RELATIVE TO THE CITY OF HAWAIIAN GARDENS.

5 MEMBER JONES: I'LL SECOND.

6 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
7 MR. EATON, SECONDED BY MR. JONES, THE ADOPTION OF RESOLUTION
8 1999-45, TO APPROVE THE COMPLIANCE ORDER RELATIVE TO THE
9 BIENNIAL REVIEW FINDING FOR THE SOURCE REDUCTION AND
10 RECYCLING ELEMENT FOR THE CITY OF HAWAIIAN GARDENS.

11 IF THERE IS NO FURTHER DISCUSSION, WILL THE
12 SECRETARY CALL THE ROLL?

13 THE SECRETARY: BOARD MEMBER EATON?

14 MEMBER EATON: AYE.

15 THE SECRETARY: FRAZEE?

16 MEMBER FRAZEE: AYE.

17 THE SECRETARY: JONES?

18 MEMBER JONES: AYE.

19 THE SECRETARY: ROBERTI?

20 MEMBER ROBERTI: AYE.

21 THE SECRETARY: CHAIRMAN PENNINGTON?

22 CHAIRMAN PENNINGTON: AYE.

23 MOTION CARRIES.

24 MR. LOPEZ: THANK YOU.

1 ITEM NO. 17: CONSIDERATION OF ADOPTION OF A COMPLIANCE
2 ORDER RELATIVE TO THE BIENNIAL REVIEW FINDINGS FOR THE
3 SOURCE REDUCTION AND RECYCLING ELEMENT AND HOUSEHOLD
4 HAZARDOUS WASTE ELEMENT FOR THE CITY OF COACHELLA, RIVERSIDE
5 COUNTY

6 CHAIRMAN PENNINGTON: MOVE TO ITEM 17,
7 CONSIDERATION OF ADOPTION OF A COMPLIANCE ORDER RELATIVE TO
8 THE BIENNIAL REVIEW FINDINGS FOR THE SOURCE REDUCTION AND
9 RECYCLING ELEMENT AND HOUSEHOLD HAZARDOUS WASTE ELEMENT FOR
10 THE CITY OF COACHELLA IN RIVERSIDE COUNTY.

11 MR. SCHIAVO: THIS WILL ALSO BE PRESENTED BY GARY
12 COLLORD.

13 CHAIRMAN PENNINGTON: GO FOR IT, GARY.

14 MR. COLLORD: OKAY. AGAIN, AT ITS DECEMBER 15TH,
15 1998, MEETING THE BOARD CONDUCTED A BIENNIAL REVIEW OF
16 COACHELLA'S SRRE AND HHWE. THE PURPOSE OF THE BIENNIAL
17 REVIEW WAS TO DETERMINE WHETHER OR NOT THE CITY HAD
18 ADEQUATELY IMPLEMENTED THE SRRE AND HHWE, ACHIEVED THE 1995
19 DIVERSION REQUIREMENT AND, IF NOT, WHETHER THE ISSUANCE OF
20 COMPLIANCE ORDER WAS WARRANTED.

21 BECAUSE THE CITY HAD FAILED TO SUBMIT ANNUAL
22 REPORTS FOR 1995 AND 1996, AT LEAST UP UNTIL A FEW DAYS
23 BEFORE THE HEARING, THE BOARD DETERMINED THAT, BASED ON
24 AVAILABLE INFORMATION, THE CITY HAD NOT ADEQUATELY

1 IMPLEMENTED THE SRRE AND HHWE, HAD NOT ACHIEVED THE 1995
2 DIVERSION REQUIREMENT OR DEMONSTRATED A GOOD-FAITH EFFORT.

3 THE BOARD DIRECTED STAFF TO DRAFT A
4 COMPLIANCE ORDER WITH SPECIFIC CONDITIONS FOR ACHIEVING
5 COMPLIANCE FOR THE BOARD'S CONSIDERATION AT TODAY'S MEETING.

6 SINCE THAT TIME THE CITY'S CONSULTANT -- THE
7 CITY HAS HIRED A NEW CONSULTANT WHO HAS SUBMITTED REVISED
8 AND COMPLETE ANNUAL REPORTS FOR '95 AND '96, AND HAS BEEN
9 VERY RESPONSIVE AND COOPERATIVE TO STAFF'S QUESTIONS ABOUT
10 THE STATUS OF THE CITY'S DIVERSION PROGRAMS.

11 THERE IS ONE OUTSTANDING ISSUE CONCERNING
12 SOME 11,000 TONS OF DIVERTED AGRICULTURAL WASTE. HOWEVER,
13 THE ATTORNEY FOR THE CITY'S HAULER BELIEVES HE CAN SUPPLY
14 DATA TO RESOLVE THIS ISSUE IN THE CITY'S FAVOR. EVEN IF THE
15 11,000 CANNOT BE PROPERLY DOCUMENTED AND IS REMOVED FROM THE
16 CITY'S WASTE GENERATION FIGURES, THE CITY'S DIVERSION RATE
17 IS STILL APPROXIMATELY 27 PERCENT FOR '95 AND '96.

18 THE REVISED ANNUAL REPORTS DEMONSTRATE THAT
19 THE CITY IS IMPLEMENTING A VERY COMPREHENSIVE SET OF
20 DIVERSION PROGRAMS WHICH APPEAR TO SUPPORT THE REPORTED
21 DIVERSION RATE OF 53 PERCENT FOR 1995.

22 IN STAFF'S OPINION, THE CITY HAS DEMONSTRATED
23 COMPLIANCE WITH THE FIRST TWO CONDITIONS OF THE PROPOSED
24 COMPLIANCE ORDER AND, THEREFORE, RECOMMENDS THAT THEY BE

1 DROPPED.

2 STAFF BELIEVES THE CITY COULD STILL BENEFIT
3 FROM TARGETED ASSISTANCE FROM THE BOARD, AND SHOULD BE
4 REQUIRED TO DEMONSTRATE CONTINUED PROGRESS IN IMPLEMENTING
5 PROGRAMS. STAFF, THEREFORE, RECOMMENDS THAT THE ORDER BE
6 ADOPTED WITH THE LAST TWO CONDITIONS IN PLACE.

7 THE COMPLIANCE ORDER REQUIRES THE BOARD TO
8 HOLD A PUBLIC HEARING FOLLOWING COMPLETION OF THE
9 CONDITIONS, OR THE TERM OF THE COMPLIANCE SCHEDULE, TO
10 DETERMINE WHETHER OR NOT THE CITY HAS COMPLIED WITH THE
11 ORDER. SHOULD THE CITY COMPLY WITH THE CONDITIONS AHEAD OF
12 SCHEDULE STAFF WILL RECOMMEND THAT THE COMPLIANCE ORDER BE
13 LIFTED.

14 ARE THERE ANY QUESTIONS FOR STAFF?

15 CHAIRMAN PENNINGTON: QUESTIONS FOR STAFF?

16 MICHAEL PERRY. YOU'VE STAYED HERE ALL DAY,
17 YOU MIGHT AS WELL COME UP AND TALK, HUH?

18 MR. PERRY: I WAS AFRAID I'D HAVE TO SAY GOOD
19 EVENING, MR. CHAIRMAN AND BOARD MEMBERS, BUT IT'S STILL
20 AFTERNOON, FORTUNATELY. MY NAME IS MIKE PERRY WITH EMCON.
21 WE WERE RETAINED BY THE CITY TO ASSIST THEM IN COMPLYING
22 WITH THE REQUIREMENTS OF AB 939.

23 MR. WOOLSLEY, THE CITY MANAGER, EXPRESSED HIS
24 REGRETS IN NOT BEING ABLE TO ATTEND TODAY'S MEETING. HE IS

1 OBLIGATED FOR SOME BUDGETARY CONSTRAINTS AT THE CITY AND
2 SOME FINANCE MEETINGS THAT ARE GOING ON.

3 THE CITY HAS BEEN WORKING DILIGENTLY WITH THE
4 BOARD STAFF IN SUBMITTING ITS DELINQUENT ANNUAL REPORTS, AND
5 HAS DONE SO IN EARLY DECEMBER, AND AGAIN REVISED REPORTS FOR
6 '95, '96 AND '97 WERE SUBMITTED IN JANUARY. ALTHOUGH
7 WRITTEN COMMENTS HAVE NEVER BEEN RECEIVED FROM THE BOARD
8 STAFF, THE CITY HAS REVISED, AS I PREVIOUSLY SAID, ALL THREE
9 ANNUAL REPORTS.

10 VERBAL COMMENTS THAT WE HAVE RECEIVED FROM
11 THE STAFF ON THE '95 AND '96 ANNUAL REPORTS THAT WE HAD
12 RECEIVED INDICATED THE MAIN PROBLEM WAS WE HADN'T IDENTIFIED
13 PROGRAMS EXISTING PRIOR TO THE ADOPTION OF THE -- I'M SORRY,
14 PRIOR TO 1990 THAT WOULD FURTHER ASSIST IN DOCUMENTING
15 DIVERSION PROGRAMS, OR DIVERSION PROGRAMS THAT WERE
16 ASSISTING IN THE CITY'S HIGH DIVERSION RATE.

17 ALTHOUGH THE STAFF REPORTS STATES THAT THE
18 INITIAL ANNUAL REPORTS SUBMITTED DID NOT IDENTIFY WHAT
19 PROGRAMS WERE NOT BEING IMPLEMENTED AND WHY, OUR RECORDS
20 INDICATE THAT WE HAD INCLUDED WHAT'S CALLED AS APPENDIX B-3-
21 A IN THE 1995 AND '96 ANNUAL REPORTS PREVIOUSLY SUBMITTED,
22 WHICH SUMMARIZED THOSE PROGRAMS THAT HAD NOT BEEN
23 IMPLEMENTED AND WHY.

24 FOR YOUR CONVENIENCE I HAVE SUMMARIZED THE

1 PROGRAMS THAT HAVE NOT BEEN IMPLEMENTED AND WHY. ROUGHLY,
2 THERE ARE SIX PROGRAMS BETWEEN 1990 AND 1999 THAT HAVE NOT
3 BEEN IMPLEMENTED.

4 THOSE PROGRAMS INCLUDE MODIFICATION OF THE
5 RATE STRUCTURE, BUSINESS LICENSE SOURCE REDUCTION PLANS,
6 RATE STRUCTURE INCENTIVES, A COMMERCIAL LANDSCAPE COLLECTION
7 PROGRAM, PROCUREMENT POLICY USE OF COMPOST. A MATERIAL
8 RECOVERY SYSTEM HAS NOT YET BEEN SITED, HOWEVER A TRANSFER
9 STATION HAS BEEN APPROVED, AND I BELIEVE A PERMIT HAS BEEN
10 ISSUED. CONTRACTS ARE STILL IN PLACE TO SEE WHO'S GOING TO
11 PARTICIPATE IN IT. AND THE BAR, RESTAURANT AND HOTEL
12 PROGRAM HAS NOT BEEN FULLY IMPLEMENTED. BUT THESE ARE THE
13 PROGRAMS, BASICALLY SIX PROGRAMS IN THE ENTIRE SRRE THAT
14 HAVE NOT BEEN IMPLEMENTED.

15 HOWEVER, I'D RATHER FOCUS ON -- SOME OF THE
16 PROGRAMS HAVE NOT BEEN IMPLEMENTED FOR MOSTLY ECONOMIC
17 REASONS, INCLUDING BUT NOT LIMITED TO THE CITY'S AREA
18 RECENTLY BEING DESIGNATED BY THE FEDERAL GOVERNMENT AS A
19 FEDERAL EMPOWERMENT ZONE, MAKING IT AVAILABLE FOR MULTI-
20 MILLION DOLLARS' WORTH OF REDEVELOPMENT AND FUNDS AND GRANTS
21 AVAILABLE TO IMPROVE THE PROBLEMS WITH THE CITY HAVING TO DO
22 WITH UNEMPLOYMENT INFRASTRUCTURE AND THE LIKE.

23 IN ADDITION, THE CITY IS BATTLING TO MAINTAIN
24 ITS OWN POLICE DEPARTMENT, WHICH IT LOST ON DECEMBER 17TH OF

1 1998, WITH THE DISBANDING OF THE COACHELLA POLICE DEPARTMENT
2 AND HAVING TO CONTRACT WITH THE RIVERSIDE COUNTY SHERIFF'S
3 DEPARTMENT FOR LAW ENFORCEMENT SERVICES.

4 BUT, INSTEAD OF FOCUSING ON THE NEGATIVE
5 ASPECTS OF THE CITY'S SRRE STATUS, I'D LIKE TO SHOW THE
6 BOARD SOME OF THE PROGRAMS THAT HAVE BEEN IMPLEMENTED WITH
7 THE CITY'S HELP, AND BY THE CITY IN ITS PROGRAMS.

8 BETWEEN 1991 AND 1995 17 PROGRAMS WERE
9 IMPLEMENTED BY THE CITY TO ENSURE COMPLIANCE WITH AB 939.
10 AND AFTER 1995 THERE HAVE BEEN AN ADDITIONAL FOUR PROGRAMS
11 THAT HAVE BEEN IMPLEMENTED. THIS SHOULD BE COMBINED WITH
12 THE PROGRAMS THAT WERE IN PLACE PRIOR TO ADOPTION, OR THE
13 DEVELOPMENT OF THE SOURCE REDUCTION AND RECYCLING ELEMENT.

14 IN EFFECT, THE CITY'S WASTE GENERATION AND
15 CHARACTERIZATION STUDY IDENTIFIED THAT THE CITY WAS
16 ACHIEVING A 42.1 PERCENT DIVERSION RATE IN 1990, AND THIS
17 WAS ADOPTED BY THE SUBPOENA IN 1996.

18 I WOULD STRESS THAT THE MATERIALS THAT ARE IN
19 QUESTION ARE NOT OF THE RESTRICTED MATERIAL TYPE THAT MANY
20 CITIES ARE FACING. THIS IS --

21 MEMBER ROBERTI: MR. CHAIRMAN?

22 CHAIRMAN PENNINGTON: YES.

23 MEMBER ROBERTI: I HATE TO INTERRUPT, BUT HAVEN'T
24 WE CONCEDED THE FACT THAT THE CITY HAS (INAUD.) OF THESE

1 PROGRAMS (INAUD.) RESOLUTION CALLING FOR OVERSIGHT OF THOSE
2 PROGRAMS WHICH HAVE NOT BEEN IMPLEMENTED?

3 HENCE, WE KNOW YOU'RE TRYING TO BE A GOOD
4 GUY, BUT I DON'T SEE WHY WE -- NO OTHER CITY GETS TO COME
5 HERE AND REPEAT ALL THE WONDERFUL THINGS THEY'VE DONE THAT
6 JUST SIMPLY COMPLY WITH OUR REGULATIONS.

7 SO, THERE'S STILL THAT GAP OUT THERE, AND
8 THAT IS WHAT THE RESOLUTION DEALS WITH, AND THAT'S WHAT YOU
9 HAVEN'T COMPLIED WITH. SO, I DON'T SEE THE POINT IN THIS,
10 UNLESS WE WANT EVERY CITY, STARTING WITH LOS ANGELES ON
11 DOWN, TO DISCUSS EVERYTHING THEY'VE EVER COMPLIED WITH. IN
12 MY OWN HUMBLE ESTIMATION.

13 MR. PERRY: MAY I CONTINUE?

14 CHAIRMAN PENNINGTON: SURE.

15 MR. PERRY: THE PURPOSE FOR MY BEING HERE IS,
16 AGAIN, WE'RE RESPECTIVELY REQUESTING THAT THE BOARD CONSIDER
17 A THIRD RECOMMENDATION TO THE STAFF REPORT AND NOT ADOPT
18 RESOLUTION 1999-46, AS THE CITY HAS MADE CONSIDERABLE
19 PROGRESS IN IMPLEMENTING ITS SRRE BOTH IN INTENT AND THE
20 LETTER OF THE LAW.

21 AND THAT THE COMPLIANCE REQUIREMENTS OF
22 IMPLEMENTING ALL PROGRAMS IN A QUARTERLY REPORT TO THE WASTE
23 BOARD ARE ONLY GOING TO FURTHER STRETCH THE LIMITED CITY
24 RESOURCES IN COMPLYING WITH THIS REGULATION, AND KEEP THEM

1 FROM ACTUALLY IMPLEMENTING PROGRAMS.

2 I BELIEVE THAT THE CITY HAS DEMONSTRATED THAT
3 NOT ONLY IS HAS BEEN IMPLEMENTING THE PROGRAMS, AND IT HAS
4 BEEN IN COMPLIANCE WITH AB 939. IT'S ONLY DEFICIENCY HAS
5 BEEN IN REPORTING TO THE WASTE BOARD, WHICH IS HAS DONE WITH
6 ALL THREE ANNUAL REPORTS BEING SUBMITTED TO THE WASTE BOARD.

7 CHAIRMAN PENNINGTON: ANY QUESTIONS? YES, MR.
8 FRAZEE.

9 MEMBER FRAZEE: AS I UNDERSTAND THE STAFF
10 RECOMMENDATION, THAT'S EXACTLY WHAT THEY'RE RECOMMENDING,
11 THAT WE DROP CONDITIONS "A" AND "B" IN THE COMPLIANCE
12 SCHEDULE, AND ONLY GO WITH "C" AND "D," WHICH --

13 MR. PERRY: WHICH IS QUARTERLY REPORTING TO THE
14 WASTE BOARD.

15 MEMBER FRAZEE: -- SAYS DOCUMENT PROGRESS AND
16 IMPLEMENTING SELECTED PROGRAMS, AND WORK WITH THE TARGETED
17 IMPLEMENTATION ASSISTANCE SECTION. SO, I CAN'T SEE WHERE
18 THOSE ARE TOO ONEROUS.

19 MR. PERRY: WE DON'T KNOW WHAT THOSE QUARTERLY
20 MONITORING REQUIREMENTS ARE GOING TO BE, AND THE CITY HAS
21 LIMITED STAFF RESOURCES TO COMPLY WITH THEM. THEY'RE HAVING
22 TROUBLE ENOUGH WITH THEIR ANNUAL REPORTS TO HAVE TO DO THEM
23 QUARTERLY.

24 IN ADDITION, WHAT THIS DOES IS, THIS CREATES

1 ANOTHER BLACK EYE FOR THE CITY IN A TIME WHEN IT'S TRYING TO
2 RECOVER. I MADE IT AKIN TO GETTING A DROP/FAIL IN COLLEGE,
3 IT'S NOT THE END OF THE WORLD BUT IT'S A BLACK MARK THAT
4 GOES ON YOUR RECORD. THE CITY WOULD RATHER NOT GET THE
5 DROP/FAIL.

6 IT'S SUBMITTED ITS FINAL REPORT -- YES, LATE,
7 AND WE'RE APPEALING TO THE PROFESSOR, OR THE PROFESSORS TO
8 MAKE AN ACADEMIC EXCEPTION, AND ACCEPT THE LATE FINAL EXAM
9 FOR A LETTER GRADE RATHER THAN A DROP/FAIL.

10 MEMBER JONES: HOW DO YOU GET A GRADE, THOUGH, IF
11 YOU DON'T TURN IN A TEST? AND, I THINK THE QUARTERLY
12 REPORTS ARE THE TEST AND THAT'LL GET YOU THE GRADE.

13 I MEAN, YOU'VE GOT PEOPLE THAT ARE DOING THE
14 PROGRAMS, RIGHT?

15 MR. PERRY: THE PROGRAMS ARE IMPLEMENTED, YES.

16 MEMBER JONES: PEOPLE ARE DOING THEM ONGOING.

17 MR. PERRY: YES.

18 MEMBER JONES: HAULERS, RECYCLERS, CITY STAFF?

19 MR. PERRY: ABSOLUTELY. YES.

20 MEMBER JONES: DO THEY HAVE A REQUIREMENT TO
21 REPORT?

22 MR. PERRY: THEY ARE REQUIRED TO REPORT DISPOSAL
23 QUANTITIES, SINCE WE'RE ON A DISPOSAL-BASED METHOD. YES,
24 THOSE REPORTS ARE ALWAYS RECEIVED FROM THE COUNTY ON A

1 QUARTERLY BASIS.

2 MEMBER JONES: SO WHEN THE TARGET IMPLEMENTATION
3 ASSISTANCE TEAM GOES DOWN AND TRIES TO WORK OUT WHAT'S GOING
4 TO WORK HERE --

5 MR. PERRY: BUT THE STATE HAS GOTTEN THOSE REPORTS
6 EVERY QUARTER FOR THE LAST SEVEN YEARS, OR THE LAST -- YES,
7 SEVEN YEARS.

8 MEMBER JONES: NO, WE HAVEN'T.

9 MR. PERRY: THE QUARTERLY REPORTS ARE REQUIRED TO
10 BE --

11 MEMBER JONES: OH, THE DISPOSAL?

12 MR. PERRY: YES.

13 MEMBER JONES: THAT'S NOT IMPLEMENTATION OF THE
14 PROGRAMS. HAD WE GOTTEN THOSE OTHER REPORTS MAYBE THIS
15 WOULDN'T HAVE HAPPENED.

16 MR. PERRY: AGAIN, WE'RE ASKING WHAT SORT OF
17 DOCUMENTATION OR REPORTING IS THE CITY GOING TO BE REQUIRED
18 TO DO? THEY'VE REPORTED TO THE BOARD AND TO THE STAFF WHAT
19 PROGRAMS ARE BEING IMPLEMENTED, PRIMARILY BECAUSE OF
20 ECONOMIC REASONS.

21 IF IT'S JUST WE'RE GOING TO REGURGITATE THIS
22 REPORT EVERY QUARTER, AS LONG AS WE'RE IN COMPLIANCE -- AS
23 LONG AS WE'RE STILL COMPLYING WITH THE DIVERSION MANDATES
24 I'M NOT SURE THAT IT'S GOING TO SERVE EITHER THE BOARD OR

1 THE CITY, IN TERMS OF FURTHERING ADDITIONAL WASTE REDUCTION
2 EFFORTS.

3 TO WHAT ENDS WILL THE CITY BE -- TO WHAT
4 REPORT WILL THE CITY BE SUBMITTING, AND TO WHAT END WILL BE
5 THE PURPOSE OF THE REPORT?

6 MEMBER JONES: TO COMPLY WITH THE CONDITIONS THAT
7 ARE SET BY THE BOARD, BECAUSE YOU DIDN'T -- YOU WEREN'T ABLE
8 TO GET THROUGH THE BIENNIAL REVIEWS. IT SEEMS REASONABLE.
9 IT IS A BURDEN --

10 MR. PERRY: THE CITY IS APPEALING FOR --

11 MEMBER JONES: IT IS A BURDEN, BUT IT'S A BURDEN
12 ON ALL THE OTHER CITIES AND COUNTIES THAT DO REPORT THAT
13 HAVE SIMILAR SITUATIONS. AND THERE MAY NOT BE 536, BUT I'LL
14 GUARANTEE YOU THERE'S FIVE OR SIX THAT ARE IN THE SAME
15 SITUATION AS COACHELLA. AND THEY REPORT.

16 SO, THOSE ARE THE -- YOU KNOW, THAT'S, IN MY
17 MIND, THE NEED TO PRESERVE THE INTEGRITY AND MAKE SURE THAT
18 THESE PROGRAMS ARE BEING DONE. TO MAKE SURE THEY'RE BEING
19 DONE, YOU KNOW, AT A LEVEL TO GET YOU WHERE YOU NEED TO BE.

20 MR. PERRY: THANK YOU.

21 MEMBER ROBERTI: IS A MOTION IN ORDER?

22 CHAIRMAN PENNINGTON: SURE.

23 MEMBER ROBERTI: I MOVE THAT THE BOARD RECOMMEND -
24 - OR, THE BOARD ADOPT RESOLUTION 1999-46.

1 MEMBER EATON: SECOND.

2 CHAIRMAN PENNINGTON: OKAY. THAT'S -- YES?

3 MEMBER FRAZEE: THAT SHOULD BE MODIFIED BY
4 STRIKING CONDITIONS "A" AND "B" --

5 MEMBER ROBERTI: ACCEPTED.

6 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
7 SENATOR ROBERTI, AND SECONDED BY MR. EATON, THE ADOPTION OF
8 RESOLUTION 1999-46, WITH THE AMENDMENT REMOVING SECTION ONE
9 AND TWO. IS THAT RIGHT?

10 MEMBER FRAZEE: "A" AND "B."

11 CHAIRMAN PENNINGTON: "A" AND "B," TO APPROVE THE
12 COMPLIANCE ORDER RELATIVE TO BIENNIAL REVIEW FINDINGS FOR
13 THE SOURCE REDUCTION AND RECYCLING ELEMENT AND HOUSEHOLD
14 HAZARDOUS WASTE ELEMENT FOR THE CITY OF COACHELLA.

15 IS THERE ANY FURTHER DISCUSSION? IF NOT,
16 WILL THE SECRETARY CALL THE ROLL, PLEASE?

17 THE SECRETARY: BOARD MEMBER EATON?

18 MEMBER EATON: AYE.

19 THE SECRETARY: FRAZEE?

20 MEMBER FRAZEE: AYE.

21 THE SECRETARY: JONES?

22 MEMBER JONES: AYE.

23 THE SECRETARY: ROBERTI?

24 MEMBER ROBERTI: AYE.

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1 THE SECRETARY: CHAIRMAN PENNINGTON?

2 CHAIRMAN PENNINGTON: AYE.

3 //

4 ITEM NO. 18: CONSIDERATION OF STAFF RECOMMENDATION TO
5 CORRECT THE BASE YEAR DISPOSAL TONNAGE FOR THE PREVIOUSLY-
6 APPROVED SRRE FOR THE CITY OF FRESNO, FRESNO COUNTY

7 CHAIRMAN PENNINGTON: ITEM 18, CONSIDERATION OF
8 STAFF RECOMMENDATIONS TO CORRECT THE BASE YEAR DISPOSAL
9 TONNAGE FOR THE PREVIOUSLY-APPROVED SOURCE REDUCTION AND
10 RECYCLING ELEMENT FOR THE CITY OF FRESNO, FRESNO COUNTY.

11 MEMBER EATON: MR. CHAIR?

12 CHAIRMAN PENNINGTON: YES?

13 MEMBER EATON: THIS ITEM WAS ORIGINALLY HEARD IN
14 DECEMBER, RIGHT? BUT IT WAS JUST OMITTED?

15 MEMBER FRAZEE: IT WAS A CLERICAL ERROR.

16 MEMBER EATON: IT WAS A CLERICAL ERROR?

17 CHAIRMAN PENNINGTON: YEAH.

18 MEMBER EATON: IS THERE ANY REASON FOR US TO KIND
19 OF GO OVER IT, DO YOU THINK, OR DO WE NEED A PRESENTATION?

20 MR. SCHIAVO: WE WERE JUST GOING TO SAY IT'S AN
21 ADMINISTRATIVE ITEM, TO CLEAN UP LAST MONTH'S --

22 MEMBER EATON: YEAH. SO THEN WE CAN JUST MOVE IT.

23 (THE PARTIES SIMULTANEOUSLY SPEAK.)

24 CHAIRMAN PENNINGTON: SO YOU'RE MAKING A MOTION?

1 MEMBER EATON: YEAH, UNLESS THERE'S, YOU KNOW, AN
2 AGREEMENT OR ANYTHING --

3 CHAIRMAN PENNINGTON: YEAH. IT'S MOVED BY MR.
4 EATON, AND SECONDED BY MR. JONES, THE ADOPTION OF RESOLUTION
5 1999-19, TO APPROVE THE CORRECTION TO THE BASE YEAR DISPOSAL
6 TONNAGE FOR THE PREVIOUSLY-APPROVED SOURCE REDUCTION
7 RECYCLING ELEMENT FOR THE CITY OF FRESNO, FRESNO COUNTY.

8 IF THERE'S NO FURTHER DISCUSSION, WILL THE
9 SECRETARY CALL THE ROLL, PLEASE?

10 THE SECRETARY: BOARD MEMBER EATON?

11 MEMBER EATON: AYE.

12 THE SECRETARY: FRAZEE?

13 MEMBER FRAZEE: AYE.

14 THE SECRETARY: JONES?

15 MEMBER JONES: AYE.

16 THE SECRETARY: ROBERTI?

17 MEMBER ROBERTI: AYE.

18 THE SECRETARY: CHAIRMAN PENNINGTON?

19 CHAIRMAN PENNINGTON: AYE.

20 MOTION CARRIES.

21 MEMBER JONES: THANK YOU.

22 MEMBER EATON: THANK YOU.

23 CHAIRMAN PENNINGTON: A VERY PRECISE PRESENTATION.

24 ITEM NO. 19: CONSIDERATION OF THE STATUS OF THE

1 CALIFORNIA USED OIL RECYCLING FUND AND THE AWARDING OF
2 ADDITIONAL NONPROFIT GRANTS

3 CHAIRMAN PENNINGTON: ITEM 19, CONSIDERATION OF
4 THE STATUS OF THE CALIFORNIA USED OIL RECYCLING FUND AND THE
5 AWARDING OF ADDITIONAL NONPROFIT GRANTS. WHO HAVE WE GOT?
6 KARIN FISH.

7 MS. FISH: THIS IS PROBABLY NOT AN ITEM FOR AFTER
8 FIVE O'CLOCK. BUT, THAT BEING SAID, WE'LL CONTINUE.

9 OKAY. DUE TO THE COMPLEXITY OF THE OIL
10 PROGRAM, SARA AVILA IS GOING TO BEGIN THE PRESENTATION BY
11 SETTING A BRIEF CONTEXT ON HOW THE STATUTE GOVERNING THIS
12 FUND WORKS. REALLY BRIEF.

13 MS. AVILA: MY NAME IS SARA AVILA WITH ADMIN
14 DIVISION.

15 IN 1991 THE LEGISLATURE PASSED THE CALIFORNIA
16 OIL RECYCLING ENHANCEMENT ACT, WHICH BECAME EFFECTIVE
17 JANUARY 1ST, 1992. THE PURPOSE OF THE CALIFORNIA RECYCLING
18 ENHANCEMENT ACT WAS TO REDUCE THE AMOUNT OF USED OIL
19 DISPOSED OF ILLEGALLY, THEREBY PREVENTING DAMAGE TO THE
20 ENVIRONMENT AND THREATS TO PUBLIC HEALTH, AND TO RECYCLE AND
21 RECLAIM USED OIL.

22 THE CALIFORNIA RECYCLING ACT REQUIRES OIL
23 MANUFACTURERS TO PAY THE BOARD FOUR CENTS FOR EVERY QUART OF
24 LUBRICATING OIL SOLD, TRANSFERRED OR IMPORTED FOR USE IN

1 CALIFORNIA.

2 THE PRIMARY EXPENDITURES FROM THE FUND
3 INCLUDE PAYMENT OF RECYCLING INCENTIVES TO PROGRAM
4 PARTICIPANTS, UP TO THREE MILLION, TO THE BOARD FOR DIRECT
5 ADMIN COSTS, A BUDGET ACT APPROPRIATION TO THE DEPARTMENT OF
6 TOXIC SUBSTANCE CONTROL FOR REPORTING COSTS, AND UP TO ONE
7 MILLION IN RESERVE.

8 FOLLOWING THESE EXPENDITURES, 10 MILLION OR
9 HALF OF THE REMAINING FUNDS, WHICHEVER IS GREATER, IS FOR
10 BLOCK GRANTS TO LOCAL GOVERNMENTS.

11 AFTER THE ABOVE EXPENDITURES AND INDIRECT
12 ADMINISTRATION COSTS, SUCH AS FILTER COLLECTION EFFORTS AND
13 CAL EPA APPROPRIATION, THE REMAINING MONIES ARE AVAILABLE TO
14 THE BOARD SOLELY FOR THE FOLLOWING: UP TO 200,000 FOR
15 CONTAMINATED OIL PAYMENTS; AT LEAST 40 PERCENT FOR
16 OPPORTUNITY GRANTS TO LOCAL GOVERNMENTS; AT LEAST 20 PERCENT
17 FOR STATEWIDE EDUCATION AND INFORMATION; AT LEAST 10 PERCENT
18 FOR GRANTS TO NONPROFIT ENTITIES; AND, AT LEAST 10 PERCENT,
19 BUT NOT MORE THAN 50 PERCENT, FOR RESEARCH AND DEMONSTRATION
20 GRANTS.

21 PROGRAM MANAGEMENT DETERMINED THAT THE MOST
22 EFFICIENT WAY TO MANAGE THE GRANT CYCLES, AS WELL AS MONIES
23 IN THE FUND, IS TO AWARD COMPETITIVE GRANTS EVERY OTHER
24 FISCAL YEAR, IN ADDITION TO BLOCK GRANTS ANNUALLY.

1 KARIN?

2 MS. FISH: AT THE OCTOBER MEETING THE BOARD ASKED
3 FOR STAFF TO BRING A FULL ACCOUNTING OF THE OIL FUND BACK TO
4 THE BOARD. THE REASON WAS TO SEE IF THERE WERE SUFFICIENT
5 CASH RESERVES AVAILABLE TO FUND ADDITIONAL NONPROFIT GRANT
6 APPLICANTS NOT BEING CONSIDERED AT THE TIME.

7 PROBLEMATIC TO THE BOARD WAS THE VERY LARGE
8 CASH BALANCE THAT CONTINUES TO REMAIN IN THE FUND.

9 IN DECEMBER STAFF BROUGHT AN ITEM TO THE
10 BOARD THAT WAS APPROVED, THAT WAS DESIGNED TO ENCOURAGE OUR
11 LOCAL PARTNERS TO BE A BIT MORE EXPEDITIOUS ON DRAWING ON
12 THEIR AWARDED FUNDS.

13 FOR THIS ITEM STAFF ANALYZED THE CASH,
14 REVENUE, AND EXPENDITURE TRENDS, THE MANY ENCUMBRANCES IN
15 EACH OF THE GRANT CYCLES, AS WELL AS THE CURRENT AND FUTURE
16 ALLOCATIONS PLANNED BY THE OIL PROGRAM STAFF.

17 CHERI IS GOING TO START AND GO THROUGH THE
18 COMPLICATED FUND CONDITION THAT IS DESIGNED TO ANALYZE THIS
19 FUND. BUT IT'S IMPORTANT TO REITERATE WHAT SARA SAID, AND
20 REMEMBERING THAT THE STAFF IS -- WITH THE EXCEPTION OF THE
21 BLOCK GRANTS -- ON A TWO-YEAR FUNDING CYCLE.

22 SO, CHERI, IF YOU COULD TAKE THEM THROUGH THE
23 FUND CONDITION?

24 MS. ANDERSON: MY NAME'S CHERI ANDERSON.

1 OKAY. I'D LIKE TO DIRECT YOUR ATTENTION TO
2 ATTACHMENT 1, WHICH SHOULD BE IN YOUR PACKAGE, FUND
3 CONDITION CHART.

4 OKAY. THIS IS THE FUND CONDITION FOR THE
5 USED OIL RECYCLING FUND, AND IT'S A DISPLAY OVER A TWO-YEAR
6 PERIOD. AND I'M GOING TO START BY WALKING YOU THROUGH THE
7 COLUMNS OF INFORMATION. SO, THERE'S THREE COLUMNS PER YEAR.

8 THE FIRST, LABELED ALLOCATION FOR STATUTES,
9 DISPLAYS HOW THE FUNDING IS REQUIRED TO BE SPENT. THAT'S
10 ACCORDING TO THE BUDGET ACT APPROPRIATION LEVELS, AND ALSO
11 THE PUBLIC RESOURCES CODE. THAT COLUMN OF INFORMATION FOR
12 BOTH THE YEARS IS PROVIDED FOR INFORMATION AND COMPARISON
13 PURPOSES.

14 THE MIDDLE COLUMN, LABELED ALLOCATION
15 PROGRAM, THAT DISPLAYS HOW FUNDING, AGAIN, IS REQUIRED TO BE
16 SPENT ACCORDING TO BUDGET ACT APPROPRIATION. AND IT ALSO
17 INCLUDES THE EXISTING SPENDING PLAN RIGHT NOW, WITHIN --
18 THAT IS WITHIN THE FRAMEWORK OF STATUTE.

19 THE THIRD COLUMN OVER, THE FUND BALANCE FOR
20 EACH OF THE FISCAL YEARS. THAT STARTS WITH THE AVAILABLE
21 CASH BALANCE, AND IT DISPLAYS THE AVAILABILITY OF FUNDS AS A
22 RUNNING TOTAL AFTER EACH PROGRAM ITEM HAS BEEN EXPENSED.

23 OKAY?

24 OVER ON THE FAR LEFT OF THE ITEMS LISTED,

1 JUST TO WALK YOU THROUGH, I'LL GROUP SOME OF THOSE ITEMS
2 TOGETHER.

3 CASH ON HAND ON 10/31/98, THAT'S AN UPDATED
4 CASH BALANCE RIGHT OFF OF STATE CONTROLLER'S REPORTS.

5 THE NEXT TWO ITEMS REFLECT SOME ADJUSTMENTS
6 THAT HAVE BEEN MADE TO THE CASH. THE FIRST, THE CURRENT
7 YEAR ADJUSTMENT -- THOSE ARE SOME PENDING AND TRANSIT
8 REVENUES.

9 AND THE NEXT ITEM, THAT IS A REDUCTION YOU
10 SEE OF 31.6 MILLION, LABELED THE COMMITTED PRIOR YEAR
11 AWARDS, THOSE ARE THE PREVIOUSLY-ENCUMBERED AWARDED GRANTS.

12 AND GRANT AWARD HISTORY, IF YOU'D LIKE TO
13 KNOW WHAT GRANT PROGRAMS MAKE THAT DOLLAR AMOUNT UP, THAT'S
14 SHOWN IN ATTACHMENT 3.

15 OKAY. THE NEXT LINES, GOING DOWN, IT JUST
16 ADDS IN ADDITIONAL REVENUE THAT WE'RE PROJECTING TO COLLECT
17 THROUGH THE END OF JUNE, THE END OF THE FISCAL YEAR.

18 THE NEXT 10 LINES -- I'M GOING TO GROUP THOSE
19 TOGETHER -- THOSE ARE EXPENDITURES TO THE FUND AS
20 APPROPRIATED IN THE BUDGET ACT. INCLUDED AND HIGHLIGHTED IN
21 THERE IS A RESERVE, A BUILT-IN RESERVE FOR CONTINGENCIES OF
22 \$1 MILLION.

23 AND, YOU'LL NOTE UP TO THIS POINT IN BOTH THE
24 TWO COLUMNS PER STATUTE AND ALLOCATION PER PROGRAM THE

1 AMOUNTS ARE THE SAME.

2 NOW GETTING INTO THE SHADED BLUE AREA, THAT -
3 - THERE IS GOING TO BE SOME DIFFERENCES HERE.

4 THE REMAINING GRANT ALLOCATION PLAN IS SHOWN,
5 AND THAT'S BASED ON THE AVAILABLE FUND BALANCE THAT'S
6 REMAINING.

7 THE ENDING FIGURE FOR '98-99, WE'RE
8 PROJECTING ON THE BOOKS THAT WE'LL HAVE 1.7 MILLION. AND WE
9 WILL TAKE THAT BALANCE, AND IT'LL BE A CARRYOVER, BECAUSE
10 IT'S -- THE GRANT CYCLE PROGRAM HERE IS ALLOCATED OVER TWO
11 YEARS, SO WE ROLL THE 1.7 OVER. AND WE JUST APPLY THE SAME
12 METHODOLOGY FOR SUBTRACTING. FUNDS WERE LIQUIDATED,
13 ACCORDING TO THE BUDGET ACT APPROPRIATION LEVELS AND THE
14 PROPOSED GRANT SPENDING LEVELS.

15 SO, AFTER ALL THE EXPENDITURES WERE ACCOUNTED
16 FOR THE REMAINING FUND BALANCE WAS BROUGHT DOWN TO ZERO.
17 BUT I WANT TO REMIND YOU THAT THERE STILL IS A BUILT-IN --
18 THE MILLION-DOLLAR CONTINGENCY RESERVE.

19 AND THAT PRETTY MUCH ENDS THE WALK-THROUGH OF
20 THIS ATTACHMENT, OF THE FUND CONDITION. SO I'D NOW LIKE TO
21 TURN THE MIKE OVER TO SARA AVILA, AND SHE'LL PRESENT THE
22 STAFF RECOMMENDATION.

23 MS. AVILA: BECAUSE OF THE TWO-YEAR FUNDING PLAN,
24 WE ARE RECOMMENDING OPTION TWO AND THREE.

1 TWO IS THAT THE BOARD NOT PROVIDE FUNDING FOR
2 THE NONPROFIT GRANT APPLICANTS THAT SCORE BELOW 70, DUE TO
3 LACK OF AVAILABLE FUNDS, BASED ON THE TWO-YEAR FUNDING
4 ALLOCATION PLAN. FURTHER FUNDING OF NONPROFIT GRANT
5 APPLICANTS WILL SIGNIFICANTLY IMPACT THE FUNDING LEVELS FOR
6 OPPORTUNITY GRANTS IN '99-2000.

7 AND OPTION THREE, REQUIRING THE USED OIL
8 PROGRAM STAFF TO COME BEFORE THE BOARD IN THE SPRING WITH AN
9 UPDATED PROJECTED REVENUE FORECAST AND THEIR RECOMMENDED
10 '99-2000 FUNDING PLAN FOR REVIEW AND APPROVAL BY THE BOARD.

11 ANY QUESTIONS?

12 CHAIRMAN PENNINGTON: ANY QUESTIONS? MR. EATON?

13 MEMBER EATON: MR. CHAIR, I JUST WOULD LIKE TO SAY
14 THANK YOU. BECAUSE, AS YOU REMEMBER, THIS WAS THAT ONE
15 ISSUE THAT WE HAD WITH A NUMBER OF NONPROFITS A NUMBER OF
16 MONTHS AGO, AND WE SORT OF GOT INTO IT. I THINK THAT THE
17 STAFF HAS DONE A SUPERB JOB IN JUST TRYING TO SEPARATE OUT
18 SOME ISSUES.

19 AND I THINK, YOU KNOW, WHAT THEY'RE ASKING
20 FOR IS, AND I WOULD AGREE, THAT IT'S PROBABLY NOT PROPER TO
21 GO BELOW WHAT WE HAD SAID, THE 70 LEVEL, EVEN THOUGH, YOU
22 KNOW, THERE WERE SOME EQUITIES OR INEQUITIES, AS THE CASE
23 MAY BE, PRESENTED. BUT THAT WE CAN PROBABLY WORK WITH THOSE
24 GROUPS. SO, THEREFORE, I THINK THAT, YOU KNOW, THE WHOLE

1 ISSUE OF DOING, AND GIVING THEM A LITTLE MORE TIME TO COME
2 BACK WITH SOME ALLOCATIONS FOR NEXT YEAR MAY SOLVE SOME OF
3 THOSE PROBLEMS.

4 AND SO, THEREFORE, I WOULD MOVE THE
5 RESOLUTION, AND HAVE MS. FISH WORK WITH MR. CHANDLER, IN
6 TERMS OF WHATEVER ELSE NEEDS TO BE TAKEN CARE OF TO GET US
7 READY FOR THE SPRING.

8 CHAIRMAN PENNINGTON: OKAY. I DO HAVE ONE PERSON
9 WHO -- STEVE CASENDZA (PHON)? HE LEFT.

10 MEMBER EATON: HE LEFT.

11 CHAIRMAN PENNINGTON: HE LEFT? OKAY.

12 MEMBER EATON: SO IF THAT'S OKAY, I'LL BE HAPPY TO
13 MOVE RESOLUTION 99-39, RELATIVE TO THE CONSIDERATION OF THE
14 STATUS OF THE CALIFORNIA USED OIL RECYCLING FUND AND THE
15 AWARDING OF ADDITIONAL NONPROFIT GRANTS.

16 MEMBER JONES: I WILL SECOND.

17 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
18 MR. EATON, AND SECONDED BY MR. JONES, THE ADOPTION OF
19 RESOLUTION 99-39, TO APPROVE STAFF RECOMMENDATIONS TO LEAVE
20 THE GRANT ALLOCATION LEVELS AS PLANNED OVER THE TWO-YEAR
21 PERIOD, AND NOT PROVIDE FUNDING FOR THE NONPROFIT GRANT
22 APPLICANTS THAT SCORED BELOW 70.

23 IF THERE'S ANY FURTHER DISCUSSION? IF NOT,
24 WILL THE SECRETARY CALL THE ROLL?

1 THE SECRETARY: BOARD MEMBER EATON?

2 MEMBER EATON: AYE.

3 THE SECRETARY: FRAZEE?

4 MEMBER FRAZEE: AYE.

5 THE SECRETARY: JONES?

6 MEMBER JONES: AYE.

7 THE SECRETARY: ROBERTI?

8 MEMBER ROBERTI: AYE.

9 THE SECRETARY: CHAIRMAN PENNINGTON?

10 CHAIRMAN PENNINGTON: AYE.

11 MOTION CARRIES.

12 ITEM NO. 25: CONSIDERATION AND APPROVAL OF SCOPE OF
13 WORK TO CONTRACT FOR SERVICES FOR IMPLEMENTING COMPLIANCE
14 AUDITS OF NEWSPRINT CONSUMERS (PUBLIC RESOURCES CODE 42750
15 THROUGH 42791)

16 CHAIRMAN PENNINGTON: I'D LIKE TO MOVE TO ITEM 25.

17 I KNOW WE HAVE SOMEBODY -- I THINK WE HAVE SOMEBODY IN THE
18 AUDIENCE TO TESTIFY. THIS IS CONSIDERATION AND APPROVAL OF
19 SCOPE OF WORK FOR IMPLEMENTING THE COMPLIANCE AUDITS FOR THE
20 NEWSPRINT CONSUMERS.

21 I MUST REMIND EVERYBODY THAT I AM A MEMBER OF
22 THE CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, BUT I HAVE
23 CLEARED THIS WITH STAFF COUNSEL AND I DON'T HAVE TO RECUSE
24 MYSELF, AND THAT THERE'S NO CONFLICTIVE INTEREST BETWEEN MY

1 MEMBERSHIP IN CNPA AND WHAT WE'RE DOING TODAY.

2 SO, CAREN TRGOVCICH. YOU DON'T LOOK LIKE
3 CAREN.

4 MS. GILDART: GOOD EVENING, I'M MARTHA GILDART
5 WITH THE WASTE PREVENTION AND MARKET DEVELOPMENT DIVISION.
6 RICK MULLER OF THE SECONDARY TECHNOLOGY SECTION WILL BE
7 PRESENTING THIS ITEM, WHEREIN WE ARE SEEKING APPROVAL OF THE
8 SCOPE OF WORK FOR THE AUDITS FOR THE NEWSPRINT COMPLIANCE
9 PROGRAM.

10 THERE IS A MEMBER OF THE PUBLIC WHO IS HERE
11 WISHING TO SPEAK TO IT, SO WE APPRECIATE BEING MOVED
12 FORWARD.

13 MR. MULLER: GOOD MORNING, MR. CHAIRMAN AND
14 MEMBERS. FOR THE RECORD, MY NAME IS RICK MULLER, I'M
15 CURRENTLY LEAD FOR THE RECYCLED CONTENT NEWSPRINT PROGRAM.

16 AS MARTHA MENTIONED, THIS IS -- THE PURPOSE
17 OF THIS ITEM IS FOR THE BOARD TO CONSIDER A SCOPE OF WORK
18 FOR IMPLEMENTING COMPLIANCE AUDITS OF NEWSPRINT CONSUMERS.
19 AND I'D LIKE TO PROVIDE A LITTLE BIT OF BACKGROUND ON THIS
20 ITEM.

21 AT THE BOARD MEMBER AUGUST 13TH, 1998, STAFF
22 WERE DIRECTED TO CONDUCT UP TO 20 AUDITS OF NEWSPRINT
23 CONSUMERS, INCLUDING TWO AUDITS OF CONSUMERS THAT APPEAR TO
24 HAVE MET COMPLIANCE WITH THE LAW, AND 18 CONSUMERS TARGETING

1 -- I'M SORRY, 18 AUDITS TARGETING CONSUMERS THAT ARE NOT IN
2 COMPLIANCE WITH REPORTING REQUIREMENTS.

3 THE BOARD APPROVED A CONTRACT CONCEPT AT ITS
4 SEPTEMBER 17TH, 1998, BOARD MEETING, AND THIS CONTRACT
5 CONCEPT WAS FOR \$50,000.

6 THE BOARD HAS STATUTORY AUTHORITY TO AUDIT
7 NEWSPRINT CONSUMERS, AND THIS IS FOUND IN THE PUBLIC
8 RESOURCES CODE SECTION 42771. IT ALSO HAS ADOPTED AN AUDIT
9 POLICY THAT SPECIFIES SPECIFIC CRITERIA TO DETERMINE THE
10 NEED FOR NEWSPRINT CONSUMER AUDITS. THIS POLICY PROVIDES A
11 FRAMEWORK FOR DETERMINING IF AUDITS ARE WARRANTED.

12 THE AUDITS WILL HELP VERIFY COMPLIANCE WITH
13 PROGRAM REQUIREMENTS, AND ALSO ENSURE ACCURACY OF
14 CONSUMPTION DATA CONTAINED IN CONSUMER CERTIFICATIONS.

15 AND I'D LIKE TO BRIEFLY GO OVER THE KEY
16 DELIVERABLES THAT ARE IDENTIFIED IN THE SCOPE OF WORK. THE
17 FIRST ONE IS THAT THE CONTRACTOR WILL RANDOMLY SELECT THE
18 COMPANIES TO BE AUDITED FROM TWO SEPARATE LISTS OF NEWSPRINT
19 CONSUMERS. THE FIRST LIST WOULD BE COMPLIANT, AND THE
20 SECOND IS NON-COMPLIANT COMPANIES.

21 AND I WANT TO EXPLAIN THAT A LITTLE BIT. BY
22 COMPLIANT, I DON'T MEAN COMPANIES THAT ARE IN COMPLIANCE
23 WITH THE LAW, THOSE ARE JUST COMPANIES THAT HAVE SUBMITTED
24 FORMS, AND WE'VE LOOKED AT THEIR CERTIFICATIONS AND THEY

1 APPEAR TO BE IN ORDER.

2 ON THE OTHER HAND, THE NON-COMPLIANT LIST
3 WILL INCLUDE COMPANIES THAT FILED LATE CERTIFICATIONS, THAT
4 WERE DELINQUENT IN FILING CERTIFICATIONS, OR THAT FILED
5 QUESTIONABLE CERTIFICATIONS.

6 ANOTHER KEY DELIVERABLE IDENTIFIED IN THE
7 SCOPE OF WORK IS THAT THE CONTRACTOR WILL PERFORM THE AUDITS
8 AND THEN WILL SUBMIT A COMPANY-SPECIFIC AUDIT REPORT TO THE
9 BOARD WITHIN 20 DAYS OF THAT AUDIT.

10 THE BOARD THEN HAS 10 DAYS TO FORWARD THE
11 AUDIT REPORT TO THE ENTITY THAT AS AUDITED. THE
12 REGULATIONS, AND I BELIEVE THE STATUTE, REQUIRE THAT EACH
13 COMPANY THAT'S AUDITED HAS TO RECEIVE THE AUDITED REPORT
14 WITHIN 30 DAYS AND SUBMIT A FINAL REPORT TO THE BOARD PRIOR
15 TO THE LAST INVOICE SUBMITTAL. THE FINAL REPORT WILL INCLUDE
16 A SUMMARY STATEMENT OF FINANCES THAT WILL ASSIST THE BOARD
17 IN IMPLEMENTING THE RECYCLED-CONTENT NEWSPRINT PROGRAM AND
18 SUGGESTIONS AND RECOMMENDATIONS FOR IMPROVING THE
19 CERTIFICATION FORMS, TERMS OF THE CONTRACT, AND/OR THE TYPE
20 OF AUDITS CONDUCTED.

21 THERE'S A FEW KEY ISSUES THAT I'D LIKE TO BRING UP
22 HERE SURROUNDING THE SCOPE OF WORK, IN AN EFFORT TO
23 ANTICIPATE ANY QUESTIONS.

24 THE FIRST ISSUE IS CONCERNING GOVERNMENT CODE

1 SECTION 19 ONE 30 B, AND THIS BASICALLY REQUIRES THAT
2 CONTRACT SERVICES BE PERFORMED BY CIVIL SERVICE EMPLOYEES
3 WHENEVER FEASIBLE. AND THIS, OF COURSE, INCLUDES IN-HOUSE
4 SERVICES.

5 I DID HAVE DISCUSSIONS WITH OUR AUDIT SECTION
6 HERE AT THE BOARD, AND AFTER THOSE DISCUSSIONS I FELT THAT
7 IT WOULD NOT BE APPROPRIATE TO HAVE THE AUDIT SECTION
8 PERFORM THESE AUDITS. AND THE REASON FOR THIS IS THEY'RE
9 NOT EXPERIENCED IN THE AREA OF COMPLIANCE AUDITS, SO THEY
10 DIDN'T FIT THE CRITERIA THAT WE IDENTIFIED IN THE SCOPE OF
11 WORK.

12 THE SECOND ISSUE HAS TO DO WITH HOW WILL
13 THESE CONTRACT FUNDS BE ENCUMBERED, WHAT IS THE MECHANISM
14 FOR ENCUMBERING THESE FUNDS. WE HAVE CONSIDERED INTER-
15 AGENCY AGREEMENTS, MASTER SERVICES AGREEMENTS, AND
16 INVITATIONS FOR BID AND, OFFICIALLY, WE HAVEN'T SELECTED A
17 MEANS AT THIS TIME. HOWEVER, UNOFFICIALLY -- AND, AS A
18 MATTER OF FACT, YESTERDAY I RECEIVED A CALL FROM THE STATE
19 CONTROLLER'S OFFICE, AND THEY INFORMED ME THAT THEY PLAN TO
20 SEND US A FORMAL ACCEPTANCE OF OUR SCOPE OF WORK FOR THE
21 DESIGNATED AMOUNT OF \$50,000.

22 ANOTHER ISSUE I'D LIKE TO COVER VERY BRIEFLY
23 IS WHY DID WE SELECT FIELD AUDITS AS OPPOSED TO DESK AUDITS.
24 FIELD AUDITS ARE MORE EXPENSIVE, DESK AUDITS CAN BE

1 PERFORMED WITHOUT TRAVEL. AND THE REASON FOR THAT IS THAT -
2 - THE REASON WE FELT THAT DESK AUDITS WERE INAPPROPRIATE FOR
3 THIS SCOPE OF WORK IS THAT WE'RE SELECTING MOSTLY COMPANIES
4 THAT HAVE HAD COMPLIANCE ISSUES WITH THE BOARD, IN
5 PARTICULAR, NOT SUBMITTING FORMS IN A TIMELY MANNER THAT ARE
6 REQUIRED BY LAW. SO, IT'S CLEAR THAT WE PROBABLY DON'T WANT
7 TO DO DESK AUDITS.

8 I'D LIKE TO MENTION BRIEFLY THAT A
9 REPRESENTATIVE FROM CNPA IS HERE, AS MARTHA MENTIONED, KIM
10 EWERT, WHO HAS SOME ISSUES SURROUNDING THE WAY THE AUDIT IS
11 BEING PERFORMED, SO WE'LL HEAR FROM HIM AFTERWARDS.

12 THE OPTIONS FOR THE BOARD ARE AS FOLLOWS.

13 OPTION ONE: APPROVE THE PROPOSED SCOPE OF
14 WORK AS WRITTEN.

15 OPTION TWO: CONDITIONALLY APPROVE THE
16 PROPOSED SCOPE OF WORK, DIRECTING STAFF TO MAKE SPECIFIED
17 CHANGES TO THE SCOPE OF WORK.

18 AND OPTION THREE: DISAPPROVE THE SCOPE OF
19 WORK, DIRECTING STAFF TO MODIFY THE PROPOSED SCOPE OF WORK
20 AND BRING IT BACK TO THE BOARD FOR SUBSEQUENT CONSIDERATION.

21 THE STAFF RECOMMENDATION IS THAT THE BOARD
22 APPROVE OPTION NUMBER ONE AND ADOPT RESOLUTION 99-02.

23 AND, FINALLY, I'D JUST LIKE TO MENTION THAT,
24 IF APPROVED THE BOARD'S ONLY ACTION WILL BE ON THE SCOPE OF

1 WORK, AS THE ACTUAL AWARD FALLS UNDER THE DELEGATION OF
2 AUTHORITY TO THE EXECUTIVE DIRECTOR FOR CONTRACTS OF \$50,000
3 OR LESS.

4 I'D BE HAPPY TO ANSWER ANY QUESTIONS AT THIS
5 TIME. OR IF YOU'D LIKE TO HOLD THE QUESTIONS UNTIL AFTER
6 MR. EWERT HAS AN OPPORTUNITY, THAT WOULD BE FINE TOO.

7 CHAIRMAN PENNINGTON: QUESTIONS OF STAFF? OKAY,
8 WE'LL HEAR FROM JIM EWERT.

9 MR. EWERT: WELL, I GUESS I DO GET TO SAY GOOD
10 EVENING. MY NAME IS JIM EWERT, AND I REPRESENT THE
11 CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, WHICH IS AN
12 ASSOCIATION OF APPROXIMATELY 500 DAILY AND WEEKLY NEWSPAPERS
13 IN THE STATE OF CALIFORNIA. WE CONSUME A SIGNIFICANT AMOUNT
14 OF NEWSPRINT IN THE STATE.

15 WE UNDERSTAND THAT THIS PROPOSAL, AT LEAST IN
16 PART, AS IT RELATES TO AUDITS OF LATE FILERS, IS MOTIVATED
17 BY THAT FACT, THAT THEY ARE IN FACT FILING THEIR REPORTS,
18 THEIR MANDATED (PHON) REPORTS ON AN UNTIMELY BASIS.

19 NOW, WE OPPOSE THE IDEA OF INCLUDING LATE
20 FILERS IN THE AUDIT PROGRAM. WE'RE NOT OPPOSED TO AUDITS,
21 PER SE, IN SITUATIONS WHERE THERE MAY BE SOME DISCREPANCY IN
22 THE INFORMATION THAT'S PROVIDED TO THE BOARD, WHERE YOU
23 QUESTION THE ACCURACY OF THE INFORMATION THAT'S PROVIDED,
24 AUDITS ARE APPROPRIATE.

1 BUT, WE FAIL TO SEE THE CONNECTION BETWEEN A
2 AUDIT OF SOMEONE WHO IS OTHERWISE COMPLIANT, AND WHOSE
3 INFORMATION IS OTHERWISE ACCURATE, WHILE IT JUST SO HAPPENS
4 THAT THEY ARE FILING LATE. THERE MAY BE ANOTHER APPROPRIATE
5 REMEDY FOR THAT, THAT IS MORE CLOSELY CONNECTED TO THE
6 MALFEASANCE.

7 JUST TO POINT OUT A COUPLE OF THINGS, BEFORE
8 I OPEN UP ANY QUESTIONS THAT YOU MIGHT HAVE. THE NEWSPAPER
9 INDUSTRY FOR THE LAST SEVERAL YEARS HAS REGULARLY EXCEEDED
10 THE MINIMUM REQUIREMENTS FOR NEWSPAPER CONTENT, OF NEWSPRINT
11 CONSUMPTION. AND BECAUSE OF THAT WE DON'T THINK THAT OUR
12 INDUSTRY SHOULD BE SINGLED OUT AND PENALIZED FOR, AS I SAID
13 BEFORE, BEING OTHERWISE COMPLIANT. SO WE URGE YOU TO
14 RECONSIDER THE INCLUSION OF LATE FILERS IN THE SCOPE OF
15 WORK.

16 MEMBER ROBERTI: MR. CHAIRMAN?

17 CHAIRMAN PENNINGTON: SENATOR ROBERTI?

18 MEMBER ROBERTI: ALONG THE LINES OF WHAT THE
19 WITNESS IS SAYING, FPR THOSE WHO ARE IN COMPLIANCE AUDITS
20 ARE A HORRIBLE THING TO GO THROUGH. IT'S ALMOST MEANS
21 YOU'RE BEING PUNISHED JUST BY VIRTUE OF HAVING THE AUDIT. I
22 ONCE HAD AN IRS AUDIT AND --

23 CHAIRMAN PENNINGTON: OH, BOY.

24 MEMBER ROBERTI: -- I CAME THROUGH ALL RIGHT.

1 BUT, I MEAN, IT'S JUST HORRIBLE GOING THROUGH IT. AND, SO I
2 DON'T THINK WE SHOULD WREAK THIS DISADVANTAGE ON SOMEBODY
3 WHO IS ACTUALLY IN COMPLIANCE.

4 THERE HAS TO BE ANOTHER WAY THAT WE --

5 CHAIRMAN PENNINGTON: I AGREE.

6 MEMBER ROBERTI: -- GO ABOUT IT. FOR THE OTHER
7 18, I THINK THAT'S --

8 MR. EWERT: WELL, THE OTHER 18 -- AT LEAST A
9 PORTION OF THE 18 IS WHAT I'M CONCERNED ABOUT AS WELL.
10 BECAUSE IN THAT 18 ARE THE LATE FILERS WHO ARE OTHERWISE
11 COMPLIANT, IT JUST SO HAPPENS THAT THEY HAVE FILED THEIR
12 FORMS AFTER MARCH 1ST. AND WE THINK THERE MAY BE A MORE
13 APPROPRIATE REMEDY FOR ENCOURAGING THOSE ACTORS TO GET THEIR
14 FORMS IN ON TIME, AND AN AUDIT MAY BE A LITTLE BIT TOO MUCH.

15 CHAIRMAN PENNINGTON: LIKE WHAT WOULD YOU SUGGEST?

16 MR. EWERT: A FINE, A HEARING AND A FINE,
17 SOMETHING MORE APPROPRIATE TO THE CONDUCT ITSELF.

18 BUT WHERE THERE IS NO QUESTIONING OF THE
19 ACCURACY OF THE INFORMATION PROVIDED IN THOSE FORMS EXCEPT
20 THAT THEY'RE COMING IN LATE, WE THINK THAT IT'S JUST AN
21 INAPPROPRIATE REMEDY TO LEVY AN AUDIT ON THEM.

22 CHAIRMAN PENNINGTON: OKAY. ANY FURTHER
23 QUESTIONS? YES, MR. FRAZEE.

24 MEMBER FRAZEE: THIS FURTHER COMPLICATES THE ISSUE

1 I GUESS. THE USUAL METHOD OF APPLYING AUDITS IS AT RANDOM,
2 PROBABLY, OR CAUSE, AND IN THIS CASE WE'RE NOT DOING EITHER.

3 WE'RE USING THE AUDIT, IN ONE SENSE, TO PUNISH OR TO GET
4 SOMEONE'S ATTENTION. AND IN THE CASE OF THE TWO COMPLIANT
5 ONES, YOU KNOW, I GUESS THAT FALLS IN THE AT-RANDOM, BUT I
6 DON'T SEE THE VALUE IF THEY'RE ALREADY WELL IN COMPLIANCE.

7 MEMBER JONES: RIGHT.

8 MEMBER FRAZEE: SO I -- YOU KNOW, WITH THE
9 QUESTION OF EXCLUDING THEM AND NOT USING IT AS A PUNISHMENT,
10 THEN YOU EXCLUDE EVERYONE. SO, YOU KNOW, I THINK IT NEEDS
11 TO BE AT RANDOM ACROSS THE BOARD WITH COMPLIANT, NON-
12 COMPLIANT, AND LATE FILERS ALL TOGETHER.

13 CHAIRMAN PENNINGTON: BUT YOU WOULD SAY PICK ONLY
14 FROM THE LATE FILERS, THE RANDOM WOULD BE --

15 MEMBER FRAZEE: NO, BECAUSE --

16 CHAIRMAN PENNINGTON: EVEN THE COMPLIANT ONES?

17 MEMBER FRAZEE: NO. IF YOU'RE GOING TO APPLY IT
18 FAIRLY THEN YOU HAVE TO INCLUDE EVERYONE, EVERY FILER.
19 DON'T YOU?

20 MR. EWERT: OH, I SEE WHAT YOU MEAN.

21 MEMBER FRAZEE: YOU KNOW, IF THE PURPOSE IS
22 PUNISHMENT -- AND I DON'T THINK THAT IS THE PURPOSE --

23 CHAIRMAN PENNINGTON: WELL, I THOUGHT THE PURPOSE
24 WAS TO GET COMPLIANCE WITH THE LAW, NOT PUNISHMENT.

CALIFORNIA SHORTHAND REPORTING

1 MS. TOBIAS: MAYBE WE SHOULD HAVE MS. GILDART GO
2 BACK TO THE POLICY THAT WE ORIGINALLY BROUGHT UP, IN TERMS
3 OF WHY WE'RE DOING THIS. BECAUSE I'LL POINT OUT, THAT THE
4 STATUTE BASICALLY SAYS, IN 42771, THAT: "EVERY CONSUMER OF
5 NEWSPRINT WHO SUBMITS A RECYCLED CONTENT NEWSPRINT USAGE
6 CERTIFICATION PURSUANT TO SECTION 42770 MAY BE SUBJECT TO AN
7 AUDIT TO ENSURE THAT THE RECYCLED CONTENT NEWSPRINT WAS
8 USED."

9 AND SO ONE OF THE ISSUES IS, IF PEOPLE ARE
10 TURNING ON CERTIFICATIONS, YOU KNOW, DO WE NEED IT AT THE
11 START OF A PROGRAM AT LEAST, OR AT OTHER CHECKPOINT TIMES,
12 TO VERIFY THAT THAT WAS IN FACT ACCURATE, WHAT THEY
13 SUBMITTED.

14 SO, BUT I THINK IT WOULD BE HELPFUL IF MS.
15 GILDART COULD GO BACK OVER THAT POLICY.

16 MS. GILDART: AND I THINK BOARD MEMBER FRAZEE HAS
17 A VERY GOOD POINT. THE INVOLVEMENT I'VE HAD IN THE PAST
18 WITH AUDITS TEND TO BE WITH THE GRANT PROGRAMS, WHERE IT IS
19 A RANDOM AUDIT ACROSS A WHOLE SPECTRUM, THEY CHOOSE RANDOMLY
20 FROM ALL GRANT RECIPIENTS JUST TO DO SPOT-CHECKING.

21 WE'VE ALSO BEEN INVOLVED IN THE MORE PUNITIVE
22 AUDIT, WHEN WE'RE ALREADY AWARE OF WRONGDOING, AND WE ARE
23 THEN GOING THROUGH THE BOOKS TO CHECK SPECIFICALLY FOR THAT
24 WRONGDOING.

1 I THINK WHAT WE'VE GOT HERE IS A BLEND OF
2 THOSE TWO TYPES OF AUDITS, AND I THINK THAT'S CAUSING SOME
3 CONFUSION WITH THE BOARD. AS I UNDERSTAND THE WAY THE
4 PROGRAM IS SET UP, THE ORIGINAL INTENT HAD BEEN MORE THE
5 RANDOM, SPOT-CHECKING TYPE OF AUDIT.

6 BUT WHAT TRIGGERED THE NEED FOR AN AUDIT WAS
7 THE FACT WE WERE GETTING CHRONICALLY-LATE FILINGS, AND WE
8 WERE GETTING CERTAIN INDIVIDUAL COMPANIES NOT COMPLYING ON A
9 REGULAR BASIS. SO, PERHAPS WHAT WE NEED TO DO IS RE-LOOK AT
10 WHETHER WE WANT TO DO THE MORE PUNITIVE TYPE OF AUDIT.

11 WE DO HAVE MITCH WEISS HERE IN THE AUDIENCE
12 IN CASE WE NEED FURTHER DISCUSSION OF HOW AUDITS ARE
13 CONDUCTED.

14 MEMBER FRAZEE: AND JUST ONE OTHER POINT TO
15 FURTHER CLOUD THE ISSUE, IS THERE ANY PROBLEM WITH THE
16 PROPRIETARY NATURE OF THESE AUDITS? AS I UNDERSTOOD, THEY
17 WERE IN THE PUBLIC DOMAIN ONCE THEY'RE DONE. THERE ISN'T?

18 MR. EWERT: NOT FROM OUR PERSPECTIVE AT LEAST.

19 MEMBER ROBERTI: IN MY ESTIMATION, OUR ONLY
20 JUSTIFICATION FOR AN AUDIT IS IF -- MAYBE IT'S A LITTLE BIT
21 DIFFERENT TACK THAN MR. FRAZEE'S -- IS IF THERE IS A CLEAR
22 NON-COMPLIANCE WITH THE LAW OR THE REGULATION, AND THAT IS
23 FILING LATE, EGREGIOUSLY LATE OR WHATEVER OUR WORD IS, IS A
24 CLEAR NON-COMPLIANCE WITH THE REGULATION, I DON'T HAVE A

1 PROBLEM THEN WITH AN AUDIT AFTER A LENGTHY PERIOD OF TIME
2 WHEN THEY'VE HAD EVERY OPPORTUNITY TO COMPLY.

3 AND I THINK, IN MY MIND THAT'S THE ONLY
4 JUSTIFICATION FOR AN AUDIT. I DON'T, EVEN IN MY MIND, HAVE
5 A JUSTIFICATION FOR AN AUDIT IF SOMEBODY THINKS SOMETHING'S
6 WRONG, BECAUSE THAT -- I MEAN, THAT'S SORT OF PUTTING THE
7 CART BEFORE THE HORSE. YOU'RE PRESUMING THE ERROR BEFORE
8 THE ERROR'S BEEN PROVED. THAT ISN'T THE CASE WITH A LATE, A
9 COMPELLINGLY LATE FILING. SO, I DON'T HAVE A PROBLEM WITH
10 AN AUDIT IN THAT CASE.

11 UNDER ANY CASE, I HAVE A PROBLEM WITH AN
12 AUDIT WHERE THERE IS NO SHOWING OF WRONGDOING, NO TARDINESS,
13 AND WE'RE GOING TO PUT THE POOR SOUL THROUGH AN AUDIT.

14 MS. TOBIAS: THEN, MR. CHAIR, MAYBE WHAT WE NEED
15 TO DO IS RECONSIDER THIS IN LIGHT OF SENATOR ROBERTI'S
16 CONCERNS.

17 LET ME GO BACK OVER, THERE'S AN AGENDA ITEM
18 FROM AUGUST 13TH, 1998, WHICH BASICALLY SETS OUT THE
19 EVALUATION OF AUDIT CRITERIA FOR 1997. AND IT BASICALLY
20 TALKS ABOUT EVIDENCE OF SIGNIFICANT REDUCTION IN THE RATE OF
21 CONSUMPTION, EVIDENCE OF A SIGNIFICANT (INAUD.) EVIDENCE
22 THAT THE TOTAL RECYCLED NEWSPRINT CANNOT BE RECONCILED WITH
23 THE TOTAL RECYCLED CONTENT NEWSPRINT, ETC.

24 SO, THIS ITEM, AS I UNDERSTAND IT, IS A --

1 BASICALLY THE SCOPE OF WORK TO GO OUT TO ACT ON THE POLICY,
2 OR THE EVALUATION OF AUDIT CRITERIA THAT THE BOARD'S
3 ADOPTED. IF A BOARD MEMBER, OR SEVERAL BOARD MEMBERS WANT
4 TO RECONSIDER THAT, THEN WE WOULD NEED TO BASICALLY COME
5 BACK ON THAT.

6 MR. EWERT: I WOULD RESPECTFULLY LIKE TO SUBMIT
7 THAT IT'S STILL UNCLEAR TO ME WHAT THE RESULTS OF SUCH AN
8 AUDIT WOULD BE ON THOSE INDIVIDUALS WHO FAILED TO TIMELY
9 FILE THEIR INFORMATION. I MEAN, IF ALL OF THE INFORMATION
10 THAT IS OBTAINED IN THE AUDIT ESSENTIALLY SUPPORTS THE
11 REPORTER'S INFORMATION, WHAT IS THE BOARD LEFT TO DO?

12 CHAIRMAN PENNINGTON: RIGHT.

13 MR. EWERT: I THINK A MORE APPROPRIATE REMEDY
14 WOULD BE TO SIMPLY FIND SOMEONE WHO EGREGIOUSLY FAILS TO GET
15 THEIR INFORMATION IN ON TIME, AND I THINK THAT WILL BE QUITE
16 A SHOT ACROSS THE BOW OF THOSE WHO FAIL TO GET THEIR
17 INFORMATION IN.

18 MS. TOBIAS: AND I WILL SAY THAT WHILE THE LEGAL
19 OFFICE DOESN'T DISAGREE WITH THAT, YOU KNOW, I THINK THAT WE
20 HAVE IN THE PAST USED A FINE, AND IT PERHAPS IS MORE RELATED
21 TO -- THE PUNISHMENT TO THE ACTIVITY.

22 I JUST WANT TO POINT OUT THAT THIS IS THE
23 BOARD-ADOPTED POLICY. SO THE PROBLEM HERE IS ONE THAT WE'RE
24 ON AN ITEM THAT IS BASICALLY TALKING ABOUT AUTHORIZING A

1 SCOPE OF WORK, AND THEN WE'RE -- BUT WE'RE HAVING A
2 DISCUSSION ON THE APPROPRIATENESS OF WHETHER THIS IS THE
3 POLICY THAT THE BOARD WANTS TO FOLLOW.

4 I'LL ALSO POINT OUT THAT, EVIDENTLY, THIS IS
5 A POLICY THAT WAS ADOPTED EVEN PRIOR TO 1998, BUT IS NOW
6 COMING INTO EFFECT BECAUSE WE ARE NOW LOOKING AT THESE
7 NEWSPRINT CERTIFICATIONS.

8 SO, IF THE BOARD WANTS TO RECONSIDER THAT,
9 THAT'S CERTAINLY WITHIN THEIR PURVIEW TO DO SO. BUT I WOULD
10 SUGGEST THAT WE'LL NEED A DIFFERENT AGENDA ITEM IN WHICH TO
11 DO THAT.

12 MEMBER FRAZEE: AS I LISTENED TO THAT POLICY, IT
13 WOULD SEEM TO ME THAT WE COULD CHOOSE TO AUDIT ONLY THOSE
14 WHO FAILED TO FILE, AND STILL MEET THE TEST OF THAT POLICY.

15 MS. TOBIAS: I THINK THAT YOU COULD DO THAT IN A
16 SEPARATE ITEM, MR. FRAZEE.

17 BUT I -- AND I APOLOGIZE IF THIS SOUNDS TOO
18 NARROW, BUT I THINK THE PROBLEM IS, IS THAT THIS AGENDA ITEM
19 IS BASICALLY TALKING ABOUT A SCOPE OF WORK. AND IF YOU ARE
20 GOING TO GO BACK AND CHOOSE WHICH ONES YOU WANT TO DO, I
21 HAVE NO PROBLEM WITH YOU DOING THAT, BUT THEN YOU DON'T HAVE
22 THE CORRECT AUDIENCE HERE TONIGHT WHO NEED TO BASICALLY GIVE
23 YOU THE INPUT ON IT.

24 CHAIRMAN PENNINGTON: SO, BUT WE COULD SEND THIS

1 BACK TO STAFF.

2 MEMBER JONES: BUT MR. CHAIRMAN, IF THE SCOPE OF
3 WORK IS THE ACTUAL AUDIT, THE CONDITIONS OF WHO GETS AUDITED
4 ISN'T PART OF THE SCOPE OF WORK, IS IT?

5 I MEAN, IT'S ALLUDED TO HERE BUT THE SCOPE OF
6 WORK ISN'T GOING TO CHANGE, BECAUSE IT'S GOING TO TALK ABOUT
7 HOW MANY YEARS' EXPERIENCE THE AUDITORS HAVE, WHAT THEY'RE
8 GOING TO DO, THEY'RE GOING TO GO IN, THEY'RE GOING TO GET --
9 YOU KNOW. IT APPEARS TO ME THAT THE TITLE IS THE SCOPE OF
10 WORK FOR AN AUDIT, THE DESCRIPTION OF WHO WE INTENDED WOULD
11 BE FLEXIBLE BECAUSE THEY SAID, YOU KNOW, EITHER MODIFY THIS
12 OR WHATEVER.

13 MS. GILDART: THE ONE THING WITH THE SCOPE OF
14 WORK, THE POLICY THE BOARD CHOOSES TO ADOPT ON HOW TO
15 CONDUCT THE AUDITS WILL AFFECT THE NUMBER OF AUDITS
16 PERFORMED, WHICH DIRECTLY AFFECTS THE BUDGET, AND SO THAT'S
17 THE MAIN CONSIDERATION HERE.

18 THERE'S ONLY ONE ENTITY WHO DID NOT FILE, THE
19 REMAINDER EITHER HAVE CONFUSING OR INADEQUATE DATA OR WERE
20 LATE, AND THOSE WERE THE ONES THE BOARD HAD EXPRESSED
21 CONCERNS AT, AND IN THE AUGUST MEETING HAD LAID OUT
22 DIRECTION FOR THE STAFF IN DEVELOPING THE SCOPE OF WORK.

23 SO, I THINK WE COULD REVISIT THE TERMS OF THE
24 SCOPE OF WORK HERE, BUT THE POLICY WOULD HAVE TO BE

1 SEPARATELY NOTICED.

2 MEMBER JONES: BUT I DON'T HAVE A CONFLICT WITH
3 THE POLICY. I THINK WHAT MR. FRAZEE SAID IS IN READING THAT
4 WE COULD STILL GO AFTER THE ONES THAT DIDN'T DO IT. RIGHT?

5 OR, THE ONES THAT YOU SAID PROVIDED CONFUSING
6 -- HAVE YOU TRIED TO WORK WITH THEM TO GET THAT CONFUSION
7 STRAIGHTENED OUT? IS IT STILL AN ISSUE? IS IT STILL
8 CONFUSED?

9 MS. GILDART: THEY HAVE NOT RESUBMITTED DATA.

10 MEMBER JONES: THEY HAVEN'T RESUBMITTED IT?

11 MS. GILDART: NO.

12 MEMBER JONES: AND THAT WAS HOW LONG AGO?

13 MS. GILDART: IN JULY.

14 MEMBER JONES: JULY UNTIL NOW?

15 MR. MULLER(?): THERE WAS ABOUT SIX COMPANIES THAT
16 -- THIS IS JUST BY RECALL, BUT I BELIEVE THERE'S ABOUT SIX
17 COMPANIES THAT FILED WHAT I CALL QUESTIONABLE OR INCOMPLETE
18 CERTIFICATIONS. MOST OF THOSE FAILED TO DOCUMENT EXEMPTION
19 CLAIMS. THERE WAS ABOUT 20 OR 30 COMPANIES THAT FILED
20 EXEMPTIONS, ALSO, TO THE LAW, BUT THERE WAS NO REASON TO
21 QUESTION THE EXEMPTION BECAUSE THEY DID DOCUMENT IT.

22 MEMBER FRAZEE: MR. CHAIRMAN, LET ME TRY ONE MORE
23 TIME HERE.

24 CHAIRMAN PENNINGTON: OKAY.

1 MEMBER FRAZEE: I'M LOOKING AT A DOCUMENT THAT'S
2 HEADED SCOPE OF WORK FOR RECYCLED CONTENT NEWSPRINT PROGRAM
3 AUDITS, AND THAT'S WHAT WE'RE DEALING WITH. RIGHT?

4 OKAY. WITHIN THAT SCOPE OF WORK IS THE
5 SECTION TWO CALLED CONTRACTOR RESPONSIBILITIES. AND THEN
6 FURTHER IN THAT IS THE CONTRACTOR SHALL CONDUCT A MINIMUM OF
7 20 AUDITS OF NEWSPRINT CONSUMERS, AND SPECIFY..... YOU
8 KNOW, I DON'T SEE WHY WE CAN'T CHANGE THE NUMBERS IN THAT
9 SCOPE OF WORK AND STILL BE IN --

10 MS. TOBIAS: WELL, LET ME SAY IT A DIFFERENT WAY.
11 IT SEEMS TO ME THAT YOU COULD APPROVE THIS SCOPE OF WORK,
12 AND GO BACK AND CHANGE THE NUMBER THAT YOU WANT TO DO.

13 BUT, THAT THIS SCOPE OF WORK BASICALLY
14 APPEARS TO ALLOW FOR UP TO 18 AUDITS. SO, SO LONG AS
15 WHATEVER YOU CHANGE, IN TERMS OF THE POLICY, COMES IN AT 18
16 OR LESS AUDITS THEN YOU'RE FINE. IF YOU THEN CHOOSE A
17 POLICY THAT INVOLVES MORE THAN 18 AUDITS, THEN YOU'LL HAVE
18 TO COME BACK AND CHANGE WHAT YOU'VE CONTRACTED FOR.

19 DOES THAT MAKE SENSE?

20 CHAIRMAN PENNINGTON: NO.

21 MEMBER FRAZEE: OKAY. BUT IT'S ACTUALLY 20.

22 MS. TOBIAS: WELL, WHATEVER THE NUMBER IS.

23 CHAIRMAN PENNINGTON: YOU MEAN IF WE WANT TO
24 CHANGE THAT NUMBER WE HAVE TO HAVE A WHOLE DIFFERENT --

1 MS. TOBIAS: NO. NO, NO, NO, NO. NO, I'M TALKING
2 ABOUT CHANGING THE CRITERIA. I'M SAYING THAT IF YOU WANT TO
3 APPROVE THIS TONIGHT, AND YOU WANT -- AND YOU'RE APPROVING
4 IT FOR 20, THAT'S WHAT YOU'RE APPROVING IN TERMS OF YOUR
5 SCOPE OF WORK.

6 IF YOU WANT TO GO BACK IN A SEPARATE AGENDA
7 ITEM AND CHANGE YOUR CRITERIA, THAT'S A SEPARATE ISSUE. YOU
8 JUST HAVE TO MAKE SURE THAT --

9 CHAIRMAN PENNINGTON: SO IF WE WANT TO CHANGE IT
10 FROM NON-COMPLIANT NEWSPAPER GROUP, OR CONSUMER GROUP, TO
11 NON-FILERS, WE'D HAVE TO SEND IT BACK?

12 MS. TOBIAS: IF YOU -- THAT'S RIGHT, IF YOU --

13 MEMBER JONES: THEY'RE STILL NON-COMPLIANT. BY
14 NOT FILING THEY'RE NON-COMPLIANT, IT'S SEMANTICS.

15 MS. GILDART: BUT IF IT'S ONLY ONE ENTITY WHO HAS
16 NOT FILED THEN WE WOULD BE AUDITING ONE ENTITY.

17 CHAIRMAN PENNINGTON: WELL, THAT'S NOT REALLY THE
18 QUESTION THAT I'M ASKING.

19 MS. GILDART: OKAY.

20 CHAIRMAN PENNINGTON: I'M ASKING ABOUT -- IT SEEMS
21 LIKE TO ME THAT WHAT THE LEGAL COUNSEL IS SAYING, THAT
22 ALMOST ANY CHANGE WE MAKE MEANS THAT WE'VE GOT TO SEND IT
23 BACK.

24 SUPPOSE WE WANT TO SAY 12 FIELD AUDITS?

1 MS. GILDART: RANDOMLY SELECTED? WOULD THERE BE
2 DIRECTION ON HOW WE CHOSE THEM?

3 CHAIRMAN PENNINGTON: DIDN'T SAY ANYTHING ABOUT
4 RANDOMLY SELECTED, IN THAT.... UP HERE, WHERE IT SAYS "THE
5 CONTRACTOR SHALL CONDUCT A MINIMUM OF 20 FIELD AUDITS OF
6 NEWSPRINT CONSUMERS," AND IF WE SAID, WELL, LET'S CHANGE
7 THAT TO 20, LET'S CHANGE IT TO 12, DOES THAT MEAN WE'D HAVE
8 TO SEND THIS BACK, THAT WE'D HAVE TO REJECT THIS?

9 ISN'T THAT WHAT YOU'RE GETTING OUT OF IT?

10 MS. GILDART: I BELIEVE WHAT WOULD HAPPEN, IF
11 YOU'D CONTINUE THROUGH THAT PARAGRAPH, WE FURTHER EXPLAINED
12 THAT THE CONTRACTOR WOULD BE CONDUCTING AT LEAST 18 AUDITS
13 RANDOMLY SELECTED FROM THE NON-COMPLIANT NEWSPRINT CONSUMER
14 GROUP.

15 AND I THINK WHAT KATHRYN IS TRYING TO GET TO
16 IS TRYING TO GET TO IS, IF YOUR POLICY AND CRITERIA CHANGE
17 LATER WE MAY NOT WANT TO LOOK SOLELY AT THE NON-COMPLIANT
18 GROUP, WE MAY WANT TO LOOK ACROSS THE WHOLE SPECTRUM. AND
19 THAT'S WHAT SHE'S CONCERNED ABOUT.

20 MEMBER FRAZEE: IS SOMEONE WHO FILED LATE NON-
21 COMPLIANT?

22 MS. GILDART: YES, IN THE BROAD SENSE OF THE TERM.
23 THERE'S THE LATE FILERS WHO, AFTER WE HAVE RECEIVED THEIR
24 DATA, APPARENTLY ARE IN COMPLIANCE, THOUGH LATE. BUT THEY

1 HAVE STEPPED OUTSIDE OF THE REQUIREMENTS BY BEING LATE. SO,
2 THEY'RE THE MINOR TRANSGRESSOR.

3 THEN THERE'S THE ONES WHO HAVE FILED WHAT WE
4 CALL QUESTIONABLE, OR PERHAPS INACCURATE DATA. AND THEN
5 THERE'S THE ONE COMPANY THAT DID NOT FILE.

6 MS. TOBIAS: LET ME TRY THIS A DIFFERENT WAY. MY
7 QUESTION IS, IS THE AUDIENCE WHO IS INVOLVED ON AUGUST 13TH
8 HERE TONIGHT ON THIS AGENDA ITEM NO. 25? MINE'S A NOTICING
9 ISSUE. WELL, I WOULD BE SURPRISED IF THEY WERE, BUT THAT'S
10 THE ISSUE I'M RAISING.

11 CHAIRMAN PENNINGTON: CNPA WAS HERE.

12 MS. TOBIAS: ARE THERE PEOPLE WHO THOUGHT THAT THE
13 BOARD WAS GOING TO USE THESE AUDIT CRITERIA, AND THAT'S WHAT
14 THEY WANTED YOU TO GO AFTER? IF YOU NARROW IT DOWN, AND
15 YOU'RE GOING AFTER A SMALLER GROUP, ARE THERE PEOPLE WHO
16 DIDN'T GET IT?

17 NOW, OBVIOUSLY, THIS IS A HYPOTHETICAL, BUT
18 IT'S THE NOTICING ISSUE THAT I'M RAISING, AND IT'S FOR THE
19 BOARD TO PROVIDE, I'M JUST RAISING THE ISSUE.

20 MEMBER FRAZEE: IN WHAT OTHER DOCUMENT IS THE 20
21 STATED?

22 MS. GILDART: THE RESOLUTION ADOPTED BY THE BOARD
23 ON AUGUST 13TH HAD SPECIFIED THAT THERE WOULD BE TWO AUDITS
24 OF COMPLIANT NEWSPRINT CONSUMERS --

1 MEMBER FRAZEE: OKAY.

2 MS. GILDART: -- AND 18 NEWSPRINT CONSUMERS THAT
3 FILED LATE, DELINQUENT, OR QUESTIONABLE CERTIFICATIONS. SO
4 WE WERE TAKING THE BOARD'S ACTION FROM AUGUST 13TH AND
5 PUTTING THAT INTO THE SCOPE OF WORK. SO, IT WASN'T JUST A,
6 YOU KNOW, STAFF-CHOSEN NUMBER, WE WERE IMPLEMENTING YOUR
7 DIRECTION.

8 MEMBER EATON: MR. CHAIRMAN?

9 CHAIRMAN PENNINGTON: WELL, I THINK WE UNDERSTAND
10 -- YES?

11 MEMBER EATON: LET ME JUST TRY AND HELP THIS.
12 ASSUMING NOTHING TAKES PLACE WITH THE SCOPE OF WORK THIS
13 EVENING, IS THERE ANY PREJUDICE TO ANYONE, OR HARM, BY NOT
14 GOING FORWARD WITH THIS SCOPE OF WORK?

15 MS. GILDART: NO. IT'S JUST A TIGHT TIME LINE.

16 MEMBER EATON: ALL RIGHT. SO WHAT I'M HEARING IS
17 THAT THERE SEEMS TO BE A CONCERN OVER THE PREVIOUS POLICY,
18 AND THAT INCLUDES -- AND THEN YOU GET INTO THE NOTICE
19 REQUIREMENTS.

20 WHY DON'T WE SIMPLY JUST BRING IT BACK EITHER
21 NEXT MONTH? YOU KNOW, I THINK THERE'S SOME NEW THINKING ON
22 IT WITH REGARD TO SOME OF THE COMPLIANT/NON-COMPLIANT TYPE
23 OF AUDITS. IF IT'S NO HARM, IT'S NOT SOMETHING WE HAVE TO
24 GO BACK THROUGH.

1 WE SOLVE THE NOTICE PROBLEM AT THE SAME TIME,
2 AND I THINK IT GIVES ANOTHER CHANCE TO LOOK AT THE POLICY
3 AND NOT BE SO INJURIOUS TO THOSE WHO HAVE MADE ARGUMENTS
4 THIS EVENING. IF IT'S NOT, WE BRING IT BACK NEXT MONTH, IT
5 SOLVES A LOT OF PROBLEMS. IF THAT'S FAIR TO EVERYONE?

6 BECAUSE, I THINK THERE ARE VALID POINTS BOTH
7 ON THE POLICY LEVEL, WHICH WAS JUST BROUGHT UP BY MR. FRAZEE
8 AND SENATOR ROBERTI, AS WELL AS PERHAPS THE OTHER RISK, AND
9 THE ISSUES THAT YOU'VE JUST RAISED TONIGHT. AND IF IT'S NOT
10 A HARM TO STAFF, LIKE IT'S GOING TO -- YOU KNOW, IT'S BEEN
11 AROUND SINCE AUGUST, I'M NOT REALLY SURE IT'S REALLY GOING
12 TO HURT ANYONE. SO IF WE COULD JUST DO THAT, I THINK THAT
13 WOULD PROBABLY BE THE SAFEST THING.

14 CHAIRMAN PENNINGTON: I AGREE. AND I THINK WE
15 OUGHT TO LOOK AT -- YOU KNOW, THE INDUSTRY SAYS FINE THEM,
16 AND THAT'S WHAT WE DO WITH THOSE WHO DON'T COMPLY BY NOT
17 FILING WITH US. MAYBE WE SHOULD TAKE A LOOK AT THAT AND SEE
18 IF THAT'S A BETTER WAY TO DO THIS THAN SLAPPING THEM WITH AN
19 AUDIT.

20 MS. GILDART: COULD I SEEK ONE POINT OF
21 CLARIFICATION? I DON'T KNOW IF KATHRYN CAN HELP US, OR --
22 GIVEN THAT WE HAVE --

23 CHAIRMAN PENNINGTON: ARE YOU SUGGESTING THAT
24 WE'RE NOT CLEAR ON EVERYTHING WE DO HERE?

1 MS. GILDART: WELL, I'M JUST A NON-CONVERSANT
2 ENGINEER, SO I NEED THINGS VERY CAREFULLY SPELLED OUT.

3 THE POINT OF CLARIFICATION, WE HAVE A BOARD
4 RESOLUTION THAT DIRECTED STAFF TO DO SOMETHING, AND RATHER
5 THAN JUST HAVE THIS SCOPE OF WORK SENT BACK AND BROUGHT BACK
6 LATER, DO WE NEED FURTHER DIRECTION SO WE CAN TAKE ACTION?

7 (THE PARTIES SIMULTANEOUSLY SPEAK.)

8 MEMBER EATON: -- IS WHAT YOU'RE ASKING.

9 MS. GILDART: YEAH.

10 CHAIRMAN PENNINGTON: YOU'VE COMPLIED WITH THAT.
11 WE TOLD YOU TO BRING IT BACK, AND YOU BROUGHT IT BACK,
12 RIGHT?

13 MS. GILDART: BUT IF YOU'RE TELLING US TO COME
14 BACK NEXT MONTH, WE NEED DIRECTION ON HOW WE WOULD CHANGE IT
15 FROM THE RESOLUTION --

16 MEMBER EATON: I DON'T THINK THAT YOU WOULD COME
17 BACK NEXT MONTH AND CHANGING -- I THINK WHAT WE'RE GOING TO
18 DO IS, WE'RE GOING TO RE-NOTICE THE ITEM BOTH ON A POLICY
19 LEVEL, AND AT THE SAME TIME A SCOPE OF WORK, AND THEN WE CAN
20 FILL IN THE AMENDMENT WITH THE SCOPE OF WORK BECAUSE WE WILL
21 HAVE SUCCESSFULLY COMPLETED THE POLICY DISCUSSION INITIALLY,
22 AND THEN THE ITEM, THEREAFTER, WOULD BE THE SCOPE OF WORK.
23 ASSUMING, OF COURSE, THAT WE AGREE THAT THE SCOPE OF WORK
24 SHOULD EVEN GO FORWARD AFTER WE'VE HAD THE POLICY

1 DISCUSSION. BUT WE HAVE TO DO A WHOLE RE-NOTICE OF BOTH IS
2 WHAT I UNDERSTAND.

3 MEMBER JONES: MR. CHAIRMAN?

4 CHAIRMAN PENNINGTON: MR. JONES.

5 MEMBER JONES: IT SEEMS TO ME THAT WE HAVE TO HAVE
6 THREE ITEMS -- NO, WAIT A SECOND, MARTHA, DON'T GO NUTS.
7 BECAUSE I'M GETTING A LITTLE BIT SIDEWAYS ON THIS, ON THE
8 POLICY. THE POLICY, IN MY MIND, IS THE PROGRAM AND HOW
9 WE'RE GOING TO ENFORCE IT. THE OPERATIONAL ISSUE THAT IS
10 ASSIGNED TO THAT POLICY IS THAT DOCUMENT THAT LAID OUT 20.
11 OKAY?

12 I SEE THEM AS TWO DIFFERENT THINGS, BECAUSE
13 OUR ISSUE WAS TO DO ENFORCEMENT, YOU KNOW, I MEAN TO ENFORCE
14 THE LAW. AND AS PART OF THAT DISCUSSION WHICH CENTERED
15 AROUND POLICY WE INSTRUCTED GO OUT, DO 20, DO 18 AND 20. I
16 DON'T KNOW THAT THAT'S A POLICY DECISION ON HOW WE'RE GOING
17 TO ENFORCE NEWSPRINT, I THINK IT IS THAT -- THE PARAMETERS
18 WITHIN WHICH YOU OPERATE, AS FAR AS, YOU KNOW, PUTTING A
19 SCOPE OF WORK TOGETHER. I SEE THOSE AS DIFFERENT.

20 AND I GET A LITTLE NERVOUS WHEN SOMETHING
21 COMES FORWARD THAT WE, I THINK, COULD WORK THROUGH AND FIX
22 THIS THING, AND MOVE ON, BUT WE CAN'T BECAUSE WE CALL IT A
23 POLICY ISSUE THAT THE STAKEHOLDERS AREN'T HERE FOR. I DON'T
24 SEE IT THAT WAY.

1 SO, I THINK WE NEED TO DEAL WITH THIS ON
2 THREE LEVELS, BECAUSE THERE IS AN OVERRIDING POLICY AS TO
3 WHETHER OR NOT WE ARE GOING TO ENFORCE, AND THEN THE OTHER
4 PIECE IS HOW WE'RE GOING TO ENFORCE.

5 MS. TOBIAS: SO I GUESS WHAT I HEAR YOU SAYING IS
6 WHAT YOU'D REALLY -- AND WHAT I THOUGHT WE WERE GOING TO DO,
7 IS WE'RE GOING TO RECONSIDER WHAT THE BOARD DID ON AUGUST
8 13TH --

9 MEMBER JONES: RECONSIDER THE SPECIFICS OF THAT.
10 BUT I DON'T SEE THAT AS A POLICY. I SEE THAT AS THE
11 OPERATING --

12 MS. TOBIAS: WELL, WHAT IT WAS CALLED --

13 (THE PARTIES SIMULTANEOUSLY SPEAK.)

14 MEMBER JONES: -- THAT THAT GOES ALONG, YOU KNOW -
15 -

16 MS. TOBIAS: WHAT IT WAS CALLED WAS AN EVALUATION
17 OF AUDIT CRITERIA. YOU CAN CALL IT ANYTHING YOU WANT. WHAT
18 I'M SAYING IS THAT THE BOARD ADOPTED, BASICALLY, THE
19 DIRECTION THAT WAS PRESENTED IN THE STAFF REPORT ON THAT.

20 MEMBER JONES: UNDERSTOOD. AND THAT CORRECTION,
21 WHEN YOU READ IT TO MR. FRAZEE AND THE REST OF US, GAVE US
22 SOME FLEXIBILITY. IT'S WHEN WE GOT TO THE SPECIFICS THAT WE
23 SAID 18 AND TWO IS WHERE WE SEEM TO DEPART FROM THE TRACK.
24 AND THAT'S ALL I'M SAYING, IS IT DOESN'T MAKE ANY SENSE TO

1 ME. I MEAN, IT JUST SEEMS LIKE --

2 MS. TOBIAS: WELL, LET ME TRY THIS AGAIN --

3 (THE PARTIES SIMULTANEOUSLY SPEAK.)

4 MEMBER JONES: -- BE ABLE TO GET YOUR WORK DONE
5 WITHOUT ALWAYS HAVING TO PUT IT OVER.

6 CHAIRMAN PENNINGTON: WHY DON'T WE JUST SEND IT
7 BACK?

8 MEMBER JONES: WE'RE GOING TO HAVE TO. BUT IT
9 JUST DOESN'T MAKE ANY SENSE.

10 CHAIRMAN PENNINGTON: ANYBODY WANT TO TRY A MOTION
11 HERE?

12 MEMBER EATON: I MOVE THAT WE SEND IT BACK.

13 CHAIRMAN PENNINGTON: SECOND.

14 MEMBER ROBERTI: TO WHOM ARE WE SENDING IT?

15 CHAIRMAN PENNINGTON: TO THE STAFF.

16 MS. TOBIAS: WHAT I UNDERSTAND THAT WE'LL BE
17 LOOKING AT IS THAT WE WILL BE RE-LOOKING AT THE EVALUATION
18 AUDIT CRITERIA THAT WAS ADOPTED AS POLICY IN 1995, AND
19 BROUGHT BACK IN AUGUST 1998, THAT -- THEN DIRECT THE SCOPE
20 OF WORK. AND I ALSO UNDERSTAND THAT THE BOARD WISHES TO
21 CONSIDER OTHER SANCTIONS, SUCH AS FINES, FOR LATE
22 COMPLIANCE.

23 SO WHAT I'M ANTICIPATING THE ITEM WILL LOOK
24 LIKE IS THAT IT WILL GO BACK OVER THESE AUDIT CRITERIA, AND

1 OBVIOUSLY SOME WILL BE TAKEN OUT. THERE MAY BE SOME THAT
2 STAFF WANTS TO CONTINUE TO RECOMMEND TO YOU. THERE WILL BE
3 A DISCUSSION OF OTHER SANCTIONS FOR LATE COMPLIANCE, AND ANY
4 OTHER ENFORCEMENT ISSUES THAT COME UP AS A RESULT OF THIS
5 DISCUSSION.

6 CHAIRMAN PENNINGTON: MR. EATON'S MOTION IS THAT
7 THIS BE RETURNED TO THE STAFF FOR CONSIDERATION AND
8 REVISION, AND FOR EXPEDIENCE SAKE I'LL SECOND THAT. OKAY?

9 MEMBER ROBERTI: SECOND.

10 CHAIRMAN PENNINGTON: GIVE IT TO THE SENATOR.

11 MEMBER ROBERTI: WHOEVER.

12 CHAIRMAN PENNINGTON: IF THERE'S NO FURTHER
13 DISCUSSION, WILL THE SECRETARY CALL THE ROLL?

14 THE SECRETARY: BOARD MEMBER EATON?

15 MEMBER EATON: AYE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: AYE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: AYE.

20 THE SECRETARY: ROBERTI?

21 MEMBER ROBERTI: AYE.

22 THE SECRETARY: CHAIRMAN PENNINGTON?

23 CHAIRMAN PENNINGTON: AYE.

24 MOTION CARRIES.

CALIFORNIA SHORTHAND REPORTING

1 MR. EWERT: CHAIRMAN AND BOARD MEMBERS, THANK YOU
2 VERY MUCH.

3 CHAIRMAN PENNINGTON: IT'S GOING ON SIX O'CLOCK, I
4 DON'T KNOW WHETHER -- DO WE NEED TO DO YOU NOW? I MEAN, WE
5 CAN DO IT.

6 MS. GILDART: THERE ARE ADDITIONAL CONTRACT ITEMS
7 THAT WOULD --

8 CHAIRMAN PENNINGTON: WELL, WE'RE GOING TO COME IN
9 TOMORROW MORNING.

10 MS. TOBIAS: THERE'S A QUESTION HERE --

11 CHAIRMAN PENNINGTON: SURE, BREAK. JUST LET ME
12 REMIND YOU, IF WE GO OUTSIDE THIS ROOM WE'RE LOCKED IN HERE,
13 YOU CAN'T GET BACK IN UNLESS YOU PROP THE DOOR OPEN.

14 (OFF THE RECORD.)

15 ITEM NO. 21: CONSIDERATION AND APPROVAL OF SCOPE OF
16 WORK AND AWARD OF CONTRACT FOR THE 1999 GRASSCYCLING PUBLIC
17 EDUCATION CAMPAIGN TO THE WASTE SYSTEMS DIVISION FOR THE
18 COUNTY OF SAN BERNARDINO

19 CHAIRMAN PENNINGTON: ITEM 21, 22, AND 24.

20 MR. LEVENSON: THANK YOU MR. CHAIRMAN AND BOARD
21 MEMBERS. THESE THREE ITEMS ALL STEM FROM OUR STRATEGIC
22 PLANNING PROCESS, WITH ORGANIC MATERIALS BEING A PRIORITY
23 AREA. AND THREE OF THE TARGETS -- OR, TWO OF THE TARGETS IN
24 OUR GREENING TEAM PLAN SPEAK TO GRASSCYCLING, LANDSCAPING

1 AND END-USE OUTREACH, WHICH IS THE SUBJECT OF THESE THREE
2 ITEMS.

3 AND THIS SLIDE WAS GOING TO OVERVIEW THE
4 CONTRACTS THAT HAVE BEEN APPROVED BY THE BOARD, AT LEAST THE
5 CONTRACT CONCEPTS. EACH ONE IS COVERED BY ONE OF THESE
6 ITEMS. THERE WAS \$450,000 FOR REGIONAL GRASSCYCLING
7 CAMPAIGNS, THAT'S ITEM NO. 21, 170,000 FOR LANDSCAPE
8 MANAGEMENT OUTREACH, THAT'S ITEM 22, AND 375,000 FOR END-USE
9 OUTREACH, AND THAT'S ITEM 24. AND THESE ITEMS SPEAK TO
10 PARTS OF THOSE CONTRACT CONCEPTS.

11 SO ITEM 21 IS SEEKING YOUR APPROVAL FOR THE
12 SCOPE OF WORK AND AWARD OF A CONTRACT FOR THE INLAND EMPIRE
13 GRASSCYCLING CAMPAIGN. SPECIFICALLY \$200,000 TO THE WASTE
14 SYSTEMS DIVISION OF SAN BERNARDINO COUNTY, WHICH WOULD ACT
15 AS THE FISCAL AGENT ON BEHALF OF THE SAN BERNARDINO AND
16 RIVERSIDE COUNTY, AND JURISDICTIONS WITHIN THOSE COUNTIES.

17 THE GOAL OF THIS PARTICULAR CAMPAIGN IS TO
18 DIVERT 10 PERCENT OF THE 246,000 TONS OF CLIPPINGS GENERATED
19 ANNUALLY. THE PRIMARY AUDIENCE IS HOMEOWNERS AND RESIDENTS.

20 AND THE SCOPE OF WORK INCLUDES A REQUIREMENT
21 FOR MATCHING FUNDS AND IN-KIND SERVICES. THE CAMPAIGN HAS
22 GOT OVER \$270,000 IN COMMITMENTS OF MATCHING FUNDS AND IN-
23 KIND SERVICES, WHICH SUE PETANI (PHON), WHO'S HERE ON BEHALF
24 OF THE COUNTY, CAN DETAIL -- CAN PROVIDE YOU MORE DETAILS ON

1 IT IF YOU WISH.

2 IT WOULD CALL FOR A REGIONAL STEERING
3 COMMITTEE. AND THE BASIC TASKS IN THE SCOPE OF WORK ARE TO
4 PLAN THE CAMPAIGN AND HAVE THE STEERING COMMITTEE COORDINATE
5 THE VARIOUS ASPECTS OF IT. TO DEVELOP ADVERTISING, SOME
6 PUBLIC SERVICE ANNOUNCEMENTS, NEWSPAPER, RADIO ANNOUNCEMENTS
7 AND SO ON, TO DO THE MATERIALS DEVELOPMENT OF BROCHURES,
8 INSERTS, WASTE PREVENTION TABS, VARIOUS PROMOTIONAL ITEMS
9 THAT WOULD BE DISTRIBUTED AT A WIDE RANGE OF DIFFERENT
10 ACTIVITIES, TO TRACK PARTICIPATION IN THOSE ACTIVITIES.

11 AND THEN, LASTLY, TO ALSO HAVE AN INDEPENDENT
12 ASSESSMENT CONDUCTED -- THE EFFECTIVENESS OF THIS CAMPAIGN
13 AND ANY OTHER CAMPAIGNS THAT WE WOULD BRING FORWARD TO YOU
14 IN THE NEXT MONTH OR SO. THAT PARTICULAR PART IS ALLOCATED
15 \$50,000 OUT OF THE 200, AND DOES NOT HAVE A MATCHING FUND
16 REQUIREMENT.

17 WE'VE INCLUDED IT IN HERE BASICALLY TO -- FOR
18 A COUPLE OF REASONS. ONE IS TO EXPEDITE IT, SO WE CAN MAKE
19 SURE WE HAVE AN INDEPENDENT PRE-SURVEY CONDUCTED BEFORE ANY
20 ACTIVITIES TAKE PLACE, AND ALSO TO MAKE SURE THAT THERE'S
21 CONSISTENCY IN HOW THE INDEPENDENT ASSESSMENT IS CONDUCTED
22 ACROSS IF WE DO MULTIPLE REGIONS.

23 SO THAT'S ALL I HAVE ON THAT ITEM.

24 STAFF WOULD REQUEST THAT YOU ADOPT OPTION

1 NUMBER ONE, AND APPROVE RESOLUTION 99-15. AND I'D BE HAPPY
2 TO ANSWER ANY QUESTIONS --

3 CHAIRMAN PENNINGTON: QUESTIONS ON THIS?

4 MEMBER EATON: I'D JUST LIKE TO THANK HOWARD,
5 BECAUSE I REALLY PUSHED FOR THE INDEPENDENT ASSESSMENT, I
6 THOUGHT THAT WAS A THING THAT WE NEEDED TO VERIFY, AND TO
7 GET SOME MEASUREMENT TOOL.

8 AND WHEN YOU SAY THE TASK FORCE, ARE WE PART
9 OF THAT TASK FORCE? I MEAN, BOARD, BOARD STAFF?

10 MR. LEVENSON: ON THE REGIONAL STEERING --

11 MEMBER EATON: YEAH.

12 MR. LEVENSON: WE ARE, BY DINT
13 (PHON) OF BEING THE CONTRACT MANAGER, INVOLVED IN APPROVING
14 ALL OF THE ACTIVITIES AND SO ON.

15 MEMBER EATON: SO WHEN YOU USE THE WORD
16 INDEPENDENT, I MEAN, IS IT --

17 MR. LEVENSON: THIS IS GOING TO BE AN INDEPENDENT,
18 IT IS NOT GOING TO BE THE REGIONAL STEERING COMMITTEE --

19 MEMBER EATON: THAT'S WHAT I WAS ASKING. THAT'S
20 FINE.

21 MR. LEVENSON: RIGHT.

22 MEMBER JONES: 99-15?

23 MEMBER EATON: I'LL MOVE WE ADOPT RESOLUTION 99-
24 15.

1 MEMBER JONES: I'LL SECOND IT.

2 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY
3 MR. EATON, SECONDED BY MR. JONES, THE ADOPTION OF RESOLUTION
4 99-15, TO APPROVE THE SCOPE OF WORK AND AWARDED OF CONTRACT
5 IN THE AMOUNT OF 200,000 FOR FISCAL YEAR '98-99 IN THE
6 COUNTY OF SAN BERNARDINO FOR THE 1999 GRASSCYCLING PUBLIC
7 EDUCATION CAMPAIGN.

8 IF THERE'S NO FURTHER QUESTIONS, WILL THE
9 SECRETARY CALL THE ROLL, PLEASE?

10 THE SECRETARY: BOARD MEMBER EATON?

11 MEMBER EATON: AYE.

12 THE SECRETARY: FRAZEE?

13 MEMBER FRAZEE: AYE.

14 THE SECRETARY: JONES?

15 MEMBER JONES: AYE.

16 THE SECRETARY: ROBERTI?

17 MEMBER ROBERTI: AYE.

18 THE SECRETARY: CHAIRMAN PENNINGTON?

19 CHAIRMAN PENNINGTON: AYE.

20 MOTION CARRIES.

21 ITEM NO. 22: CONSIDERATION AND APPROVAL OF THE SCOPE
22 OF WORK AND AWARD OF CONTRACT FOR THE LANDSCAPE MANAGEMENT
23 OUTREACH PROGRAM TO THE WASTE SYSTEMS DIVISION FOR THE
24 COUNTY OF SAN BERNARDINO

1 CHAIRMAN PENNINGTON: NOW WE MOVE TO ITEM NO. 22.

2 MR. LEVENSON: OKAY, 22 I WILL BE A LITTLE QUICKER
3 ON. WE ARE HERE SEEKING -- THIS IS THE LANDSCAPE MANAGEMENT
4 OUTREACH ASPECT OF THE GREENING TEAM PLAN.

5 AND WE ARE SEEKING YOUR APPROVAL OF THE SCOPE
6 OF WORK AND AWARD OF A CONTRACT, AGAIN, IN THIS CASE TO
7 WASTE SYSTEMS DIVISION FOR SAN BERNARDINO COUNTY TO CONDUCT
8 EDUCATIONAL OUTREACH ACTIVITIES ORIENTED TOWARDS THE
9 COMMERCIAL LANDSCAPING INDUSTRY.

10 I NOTIFIED ALL THE BOARD MEMBERS THAT THIS
11 ITEM ORIGINALLY INCLUDED ORANGE COUNTY, AN AWARD OF A
12 CONTRACT, AND AT ORANGE COUNTY'S REQUEST WE'VE PULLED THAT
13 AND WE WILL BE BRINGING THAT BACK TO YOU NEXT MONTH. SO,
14 THE RESOLUTION THAT IS IN THE AGENDA ITEM ONLY REFERS TO SAN
15 BERNARDINO COUNTY.

16 MEMBER ROBERTI: MOVE THE ADOPTION OF ITEM 99-14.

17 MEMBER FRAZEE: SECOND.

18 CHAIRMAN PENNINGTON: IT IS MOVED BY SENATOR
19 ROBERTI, SECONDED BY MR. FRAZEE, THE ADOPTION OF 99-14, TO
20 APPROVE THE SCOPE OF WORK AND AWARD OF CONTRACT IN THE
21 AMOUNT OF 49,000 FOR FISCAL YEAR '98-99 IN THE COUNTY OF SAN
22 BERNARDINO, LANDSCAPE MANAGEMENT OUTREACH PROGRAM.

23 IF THERE'S NO FURTHER DISCUSSION, WILL THE
24 SECRETARY CALL THE ROLL, PLEASE?

1 THE SECRETARY: BOARD MEMBER EATON?

2 MEMBER EATON: AYE.

3 THE SECRETARY: FRAZEE?

4 MEMBER FRAZEE: AYE.

5 THE SECRETARY: JONES?

6 MEMBER JONES: AYE.

7 THE SECRETARY: ROBERTI?

8 MEMBER ROBERTI: AYE.

9 THE SECRETARY: CHAIRMAN PENNINGTON?

10 CHAIRMAN PENNINGTON: AYE.

11 MOTION CARRIES.

12

13 ITEM NO 24: CONSIDERATION AND APPROVAL OF SCOPE OF
14 WORK AND INTERAGENCY AGREEMENT WITH THE UNIVERSITY OF
15 CALIFORNIA AT RIVERSIDE FOR COMPOST AND MULCH END-USE
16 OUTREACH

17 CHAIRMAN PENNINGTON: WE'LL MOVE TO ITEM NO. 24,
18 CONSIDERATION AND APPROVAL OF SCOPE OF WORK AND INTERAGENCY
19 AGREEMENT WITH THE UNIVERSITY OF CALIFORNIA AT RIVERSIDE FOR
20 COMPOST AND MULCH END-USE OUTREACH.

21 MR. LEVENSON: AGAIN THIS ITEM IS SEEKING YOUR
22 APPROVAL OF THE SCOPE OF WORK AND THE AWARD OF AN
23 INTERAGENCY AGREEMENT TO THE UNIVERSITY OF CALIFORNIA AT
24 RIVERSIDE FOR \$75,000 OUT OF THE ORIGINAL 375 APPROVED FOR

1 THIS CONTRACT CONCEPT.

2 WE HAVE AN RFP OUT ON THE STREETS FOR THE
3 OTHER 300,000. PROPOSALS ARE DUE FRIDAY, AND WE'LL BE
4 BRINGING THAT BACK TO YOU IN MARCH FOR THE AWARD OF
5 CONTRACTS.

6 THIS SPECIFICALLY WOULD BE WITH THE U.C.
7 COOPERATIVE EXTENSION WASTE MANAGEMENT WORK GROUP, WHICH HAS
8 MEMBERS THROUGHOUT THE U.C. SYSTEM, AND IT WOULD BE FOR
9 CONDUCTING A VARIETY OF WORKSHOPS, FIELD DAYS, FACT SHEETS,
10 NEWS BULLETINS, AND THEN ALSO TRACKING THE EFFECTIVENESS OF
11 THAT OUTREACH.

12 WE WOULD RECOMMEND THAT YOU ADOPT OPTION ONE,
13 WHICH IS IN RESOLUTION 99-16.

14 MEMBER JONES: MR. CHAIRMAN?

15 CHAIRMAN PENNINGTON: MR. JONES.

16 MEMBER JONES: I MOVE RESOLUTION 99-16.

17 MEMBER ROBERTI: I SECOND IT.

18 CHAIRMAN PENNINGTON: IT HAS BEEN MOVED BY MR.
19 JONES, SECONDED BY SENATOR ROBERTI, THE ADOPTION OF
20 RESOLUTION 99-16, TO APPROVE THE SCOPE OF WORK AND
21 INTERAGENCY AGREEMENT WITH THE UNIVERSITY OF CALIFORNIA AT
22 RIVERSIDE IN THE AMOUNT OF \$75,000 FOR FISCAL YEAR '98-99
23 FOR COMPOST AND MULCH END-USE OUTREACH.

24 WHAT ABOUT 23?

1 MR. LEVENSON: TWENTY-THREE WILL BE PRESENTED BY
2 STEVE AUSTRHEIM-SMITH.

3 CHAIRMAN PENNINGTON: OKAY, ITEM NO. 23,
4 CONSIDERATION --

5 MEMBER FRAZEE: WE DIDN'T VOTE ON THAT --

6 CHAIRMAN PENNINGTON: OH, SORRY. WELL, I WAS
7 MOVING REAL FAST, HUH?

8 WILL THE SECRETARY CALL THE ROLL ON THE
9 ADOPTION OF RESOLUTION 99-16?

10 THE SECRETARY: BOARD MEMBER EATON?

11 MEMBER EATON: AYE.

12 THE SECRETARY: FRAZEE?

13 MEMBER FRAZEE: AYE.

14 THE SECRETARY: JONES?

15 MEMBER JONES: AYE.

16 THE SECRETARY: ROBERTI?

17 MEMBER ROBERTI: AYE.

18 THE SECRETARY: CHAIRMAN PENNINGTON?

19 CHAIRMAN PENNINGTON: AYE.

20 MOTION CARRIES.

21 WE'LL MOVE TO --

22 MEMBER EATON: MR. CHAIR?

23 CHAIRMAN PENNINGTON: YES.

24 MEMBER EATON: COULD I JUST ASK HOWARD -- HOWARD,

1 YOU WERE HERE AND YOU HEARD ABOUT WE HAD A PROBLEM WITH
2 COMPLIANCE WITH COACHELLA, AS IT RELATED --

3 MR. LEVENSON: NO, I WAS NOT HERE FOR THAT ITEM
4 THIS MORNING.

5 MEMBER EATON: OKAY. WELL, WE HAD A COMPLIANCE
6 ORDER, AND SINCE I KNOW THIS COVERS RIVERSIDE, IT MIGHT BE A
7 GOOD IDEA TO KIND OF MAKE A SPECIAL OUTREACHING TO THEM, AND
8 SHOW HOW -- IF THIS INVOLVES EDUCATION, AND SOME OF THE
9 OTHER KINDS OF THINGS, SINCE THEY ARE ON A COMPLIANCE ORDER.

10 A SPECIAL LITTLE OUTREACH TO THEM SO IT MIGHT HELP THEM
11 ALONG TO COMPLY WITH THEIR SCHEDULE.

12 ITEM NO. 23: CONSIDERATION AND APPROVAL OF SCOPE OF
13 WORK AND AWARD OF CONTRACT TO THE BUILDING INDUSTRY
14 INSTITUTE FOR CONSTRUCTION AND DEMOLITION TRAINING

15 CHAIRMAN PENNINGTON: VERY GOOD. ITEM NO. 23,
16 CONSIDERATION AND APPROVAL OF SCOPE OF WORK AND AWARD OF
17 CONTRACT TO THE BUILDING INDUSTRY INSTITUTE FOR CONSTRUCTION
18 AND DEMOLITION TRAINING.

19 MR. AUSTRHEIM-SMITH: MY NAME IS STEVE AUSTRHEIM-
20 SMITH OF THE WASTE PREVENTION MARKET DEVELOPMENT DIVISION
21 PRESENTING THIS ITEM THIS EVENING. THIS IS FOR A CONTRACT
22 WITH BUILDING INDUSTRY ASSOCIATION FOR \$150,000.

23 THE BUILDING INDUSTRY -- BACK UP JUST A
24 LITTLE BIT -- THE BUILDING INDUSTRY INSTITUTE IS THE

1 TRAINING ARM OF THE CALIFORNIA BUILDING INDUSTRY
2 ASSOCIATION. WE WOULD BE CONTRACTING DIRECTLY WITH THE
3 CALIFORNIA BUILDING INDUSTRY ASSOCIATION TO PROVIDE
4 TRAINING.

5 WE WOULD BE PIGGY-BACKING ON TRAINING THAT'S
6 CURRENTLY FUNDED MOSTLY BY DEPARTMENT OF ENERGY AND THE
7 CALIFORNIA ENERGY COMMISSION. THEIR TRAINING PROGRAMS ARE
8 ALREADY ESTABLISHED, AND WE WOULD BE PIGGY-BACKING WITH THEM
9 AND GOING TO THEIR AUDIENCE OF BUILDERS THROUGHOUT THE
10 STATE.

11 IT'S A RARE OPPORTUNITY FOR US, AND A GREAT
12 WAY TO EXPAND OUR INFORMATION DISSEMINATION, WHICH IS PART
13 OF THE C&D PRIORITY MATERIALS PLAN ALREADY APPROVED AND
14 ADOPTED BY THE BOARD.

15 PRETTY MUCH THAT'S -- I THINK YOU'RE ALL WELL
16 FAMILIAR WITH THIS CONTRACT.

17 CHAIRMAN PENNINGTON: ANY QUESTIONS OF STAFF?

18 MEMBER JONES: MR. CHAIRMAN?

19 CHAIRMAN PENNINGTON: MR. JONES.

20 MEMBER JONES: THIS IS A GREAT STEP I THINK FOR
21 THIS BOARD, THAT'S WHY WE DISCUSSED IT AT LENGTH I THINK A
22 COUPLE OF MONTHS AGO.

23 I'LL MOVE RESOLUTION 99-23.

24 CHAIRMAN PENNINGTON: I'LL SECOND IT.

1 THE ADOPTION OF RESOLUTION 99-23, TO APPROVE
2 THE SCOPE OF WORK AND AWARDED OF CONTRACT IN THE AMOUNT OF
3 \$150,000 FOR FISCAL YEAR '98-99 TO THE BUILDING INDUSTRY
4 INSTITUTE FOR CONSTRUCTION AND DEMOLITION TRAINING WAS MOVED
5 BY MR. JONES, SECONDED BY MR. PENNINGTON.

6 IF THERE'S NO FURTHER DISCUSSION, WILL THE
7 SECRETARY CALL THE ROLL?

8 THE SECRETARY: BOARD MEMBER EATON?

9 MEMBER EATON: AYE.

10 THE SECRETARY: FRAZEE?

11 MEMBER FRAZEE: AYE.

12 THE SECRETARY: JONES?

13 MEMBER JONES: AYE.

14 THE SECRETARY: ROBERTI?

15 MEMBER ROBERTI: AYE.

16 THE SECRETARY: CHAIRMAN PENNINGTON?

17 CHAIRMAN PENNINGTON: AYE.

18 MOTION CARRIES.

19 ITEM NO. 26, WITHOUT OBJECTION I'LL MOVE
20 THIS BE MOVED TO THE NEXT REGULARLY-SCHEDULED BOARD MEETING.

21 MEMBER JONES: WORKS FOR ME.

22 CHAIRMAN PENNINGTON: NO OBJECTION, SO ORDERED.

23 MEMBER JONES: MR. CHAIRMAN?

24 CHAIRMAN PENNINGTON: YES.

CALIFORNIA SHORTHAND REPORTING

1 MEMBER JONES: JUST REALLY QUICKLY, IF THE BOARD
2 MEMBERS GET A CHANCE TO LOOK AT THE CONDITIONS ON THE
3 PERMITS THAT WE APPROVED TODAY, YOU'LL SEE THE MAXIMUM WAS
4 17. AND GOING BACK TO WHAT WE TALKED ABOUT DOWN AT CITY OF
5 INDUSTRY, ONE OF THEM ACTUALLY ONLY HAD FIVE THAT COVERED
6 EVERYTHING THAT THAT OPERATION.... I FORGOT TO BRING IT UP
7 AT THE TIME, I WANTED TO BRING IT UP SO YOU COULD SEE THE
8 DIFFERENCE.

9 VIII. PUBLIC COMMENT

10 CHAIRMAN PENNINGTON: OKAY. THIS COMES TO THE
11 POINT WHERE THERE'S PUBLIC COMMENT, IF ANYBODY IN THE PUBLIC
12 WANTS TO COMMENT. THANK YOU VERY MUCH.

13 IX. ADJOURNMENT

14 CHAIRMAN PENNINGTON: BEFORE I CLOSE THIS MEETING
15 I WANT TO ASK THAT YOU ALL ACKNOWLEDGE MS. KELLY, WHO IS
16 DOING HER LAST DUTIES. (APPLAUSE.)

17 THANK YOU. AND GOOD LUCK MR. EATON.

18 (CONCLUDED AT 6:10 O'CLOCK P.M.)